

**NEW MEXICO BOARD OF MEDICAL EXAMINERS**  
**Second Quarter Meeting**  
**491 Old Santa Fe Trail, Santa Fe, New Mexico**  
**August 22-23, 2002**

**MINUTES**

**1. CALL TO ORDER**

The regular meeting of the New Mexico Board of Medical Examiners was called to order at 8:13 a.m., Thursday, August 22, 2002 in the second floor conference room, Lamy Building, 491 Old Santa Fe Trail, Santa Fe, New Mexico, **John S. Romine, M.D.** presiding. Roll was called and a quorum was declared with all members present. Laptop computers were distributed for all members for the first electronic board meeting.

Members Present:

John S. Romine, M.D., President, Physician Member  
Marvin D. Call, M.D., Vice-President, Physician Member  
C. Grant La Farge, M.D., Secretary-Treasurer, Physician Member  
Sambaiah Kankanala, M.D., Physician Member  
Karl Gutierrez, M.D., Physician Member  
Vittal Pai, M.D., Physician Member  
Lynda Kellahin, Public Member  
Christine Glidden, Public Member

Also Present:

Charlotte Kinney, Executive Director  
Angela Martinez, Administrator  
Corliss Thalley, Assistant Attorney General, present on Friday only  
A list of all attendees is attached to these minutes

**2. APPROVAL OF AGENDA**

Dr. Gutierrez **MOVED** the agenda be approved as presented. Ms. Kellahin **SECONDED** the motion, which **PASSED UNANIMOUSLY**.

**3. APPROVAL OF MINUTES**

Dr. La Farge **MOVED** the minutes of the May 15-17, 2002 regular meeting be approved with a correction on page 1 under the time Dr. Kankanala arrived since he arrived on time for the afternoon meeting. Ms. Kellahin **SECONDED** the motion, which **PASSED UNANIMOUSLY**.

Ms. Kellahin **MOVED** the minutes of the July 9, 2002 special meeting be approved as presented. Dr. Gutierrez **SECONDED** the motion, which **PASSED UNANIMOUSLY**.

Dr. La Farge **MOVED** the minutes of the July 16, 2002 special meeting be approved as presented. Dr. Call **SECONDED** the motion, which **PASSED UNANIMOUSLY**.

**4. NM MONITORED TREATMENT PROGRAM**

Mary Miesem, Brett Nelson, and Jon Thayer were present to discuss the status of mandatory participants and evaluations.

**Executive Session:** **MOTION** was made by Dr. Gutierrez and **SECONDED** by Dr. Call to go into executive session to discuss licensing matters. **YES:** La Farge, Glidden, Kellahin, Kankanala, Gutierrez, Pai, Call, and Romine. **MOTION CARRIED.** The Board returned to open session. Dr. Romine stated for the record that the matters discussed in closed session were limited only to those specified in the motion for closure.

Mr. Thayer distributed the most recent operations report, including a newsletter, and new brochure. The report format has been changed to make it easier to read and better define BME participation and contributions.

## **5. CAC REPORT ON PREP PROGRAM**

David Swankin, President of the Citizen Advocacy Center (CAC), reported on the "Practitioner Remediation and Enhancement Partnership" (PREP) initiative as a framework for state medical and nursing boards to work with hospitals and other health care organizations to identify, remediate and monitor health care practitioners with deficiencies that cause concern, but who don't rise to the level of disciplinary actions. Pathways can include a board referral system similar to Impaired Programs or voluntary participation. The program could be used to refer practitioners as a result of a complaint when we can't take action. PREP requires hospitals to report to boards about marginal performers.

Many boards and organization are totally reactive, depending on complaints, not quality improvement or proactive initiatives. The goal of PREP is to prevent marginal performers from becoming discipline cases.

It is a demonstration project to see how it can work, with no real roadmap for how to proceed. Most existing boards are piloting the program in 1 or 2 hospitals or systems that are willing to participate in developing new relationship with licensing boards. Risk managers generally support the program and support from medical societies is also important. In the long run the program may need statutory authority like impairment programs.

NC Nursing Board is only one really functional with 20 participants. Problems include the time commitment for board staff, confidentiality issues (the boards know who is participating, but it is not public), and the tendency to be mixed with discipline program. There was extensive discussion about issues related to how PREP can work.

## **6. COMPLAINT COMMITTEE REPORTS**

**Executive Session:** **MOTION** was made by Ms. Kellahin and **SECONDED** by Dr. La Farge to go into executive session to discuss matters of licensure. **YES:** La Farge, Glidden, Kellahin, Kankanala, Gutierrez, Pai, Call, and Romine. **MOTION CARRIED.**

## **7. IMPAIRED COMMITTEE REPORT**

The Board continued in Executive Session to discuss the recommendations of three IPC reports since the May meeting.

## **8. LICENSING ISSUES**

The Board continued in Executive Session and discussed the following issues:

**A. Lynn Bryant, MD** from the NM Medical Review Association regarding the status of the monitoring agreement with Jesus Gonzales, MD.

**B. Marla Kokesh, MD,** application for licensure was reviewed.

**C. Samuel Murphy, MD,** application for licensure was interviewed in closed session.

Following discussions in closed session, the Board returned to open session. Dr. Romine stated for the record that the matters discussed in closed session were limited only to those specified in the motion for closure.

Dr. Call **MOVED Dr. Kokesh** be issued an unrestricted license upon completion of a mini-residency in her specialty of psychiatry. Ms. Kellahin **SECONDED** the motion, which **PASSED UNANIMOUSLY.**

Dr. La Farge **MOVED Dr. Murphy** be issued an unrestricted licenses to practice medicine in New Mexico.

Dr. Call **SECONDED** the motion, which **PASSED** with Dr. Gutierrez voting **NO.**

The Board recessed for lunch and reconvened at 1:45 p.m.

## **9. ACTIONS RELATED TO EXECUTIVE SESSION**

### **Complaint Committee A**

On behalf of Complaint Committee A, Dr. Call recommended that the following cases be closed:

**2000-A-002, 2000-A-100, 2001-A-025, 2001-A-031, 2001-A-085, 2001-A-091, 2001-A-144, 2001-A-149, 2002-A-002, 2002-A-012, 2002-A-013, 2002-A-016, 2002-A-030, 2002-A-031, 2002-A-034, 2002-A-037, 2002-A-044, 2002-A-051, and 2002-A-054.** No second was required. **YES:** Romine, Gutierrez, Pai, Glidden, La Farge, and Kankanala. **RECUSED:** Call and Kellahin. **MOTION CARRIED.**

### **Complaint Committee B**

On behalf of Complaint Committee B, Dr. Kankanala recommended that the following cases be closed: **2002-B-005, 2002-B-008, 2002-B-017, 2002-B-027, 2002-B-029, 2002-B-039, 2002-B-055, and 2002-B-061.** No second was required. **YES:** Gutierrez, Glidden, Kellahin, La Farge, Call, and Romine. **RECUSED:** Kankanala and Pai. **MOTION CARRIED.**

Dr. Kankanala **MOVED** that the physician cited in **2002-B-063 (Laura Allen, MD)** be offered a stipulated license with standard stipulations for substance abuse or issued a NCA if they refuse the stipulation based on problems in Texas related to substance abuse. No second was required. **YES:** Glidden, Kellahin, Gutierrez, Call, La Farge, and Romine. **RECUSED:** Kankanala and Pai. **MOTION CARRIED.**

### **Complaint Committee C**

On behalf of Complaint Committee C, Dr. Gutierrez recommended that the following complaint files be closed: **2001-C-114, 2001-C-154, 2002-C-038, 2002-C-043, 2002-C-048, 2002-C-052, 2002-C-053, and 2002-C-060.** No second was required. **YES:** La Farge, Kellahin, Kankanala, Pai, Call, and Romine. **RECUSED:** Gutierrez and Glidden. **MOTION CARRIED.**

### **Complaint Committee E**

On behalf of Complaint Committee E, Dr. La Farge recommended that the individual referenced complaint **#2002-E-073 (Bruce McFarland, MD)** be allowed to withdraw his application for licensure or the board will issue a NCA for substance abuse. He also must self-report the Texas Medical Board. No second was required. **YES:** Gutierrez, Glidden, Kellahin, Kankanala, Pai, and Call. **RECUSED:** La Farge and Romine. **MOTION CARRIED.**

## **10. REPORTS**

**A. President** - Dr. Romine reported on the Hearing held on August 12 before the Sunset Subcommittee of the LFC. He distributed a copy of his opening statement, which stressed the issue of the physician shortage projected for the next ten to fifteen years.

He asked board members to identify any meetings they would like to attend during the fiscal year. Dr. La Farge indicated new members usually get first choice on attending the FSMB meeting. Dr. Pai and Ms. Glidden are both interested in the Annual Meeting of FSMB in April 2003. Dr. Romine and Ms. Kinney have their expenses paid to this meeting and Dr. La Farge will attend with whatever reimbursement that is available. Dr. Call expressed interest in the upcoming FSMB workshop in Las Vegas related to impaired physicians. Dr. Gutierrez is willing to serve on a panel at the annual meeting of Physician Health Committees in Vancouver, Canada in October. Mr. Otero is the PAAC delegate for funding to the FSMB Annual Meeting and Ms. Thalley may be interested in attending the FARB Attorney Seminar.

### **B. Secretary-Treasurer -**

Joe Montoya reported on the Board's financial status, starting with the budget status for FY02, ending June 30, 2002. He continued with the Operating Budget for this year (FY03), and the budget request for next year, FY04. He reported the board predicts a cash balance of about \$1,500,000 at the end of FY04, based on projected revenue and expenditures. Ms. Kinney noted this was an issue at the Sunset Hearing and we need to be committed to reducing the cash balance.

Dr. La Farge reported on license reinstatements approved under the guidelines that allow approval of applications with no discrepancies after review by 2 physician board members. Since the last meeting 2 physicians and 3 PA's have been reinstated. There has been an increase in the number of PA applicants since the Federal Government requires PA's to have a license in the state they are employed.

Dr La Farge reported on his participation in the GAMA Task Force on Physician Retention and shared recent census and specialty board certification information. The committee is encouraged by the position of the gubernatorial candidates on gross receipts tax and reimbursements.

**C. Physician Assistant Advisory Committee** – Ms. Thomsen, the PAAC Chair, reported on behalf of the committee regarding review of MPA draft changes. They would like to recommend some revisions to the proposed language, but will present these at next meeting when we have a copy available.

She requested the Board consider adding a PA position to the Board and eliminating the PAAC. Dr. La Farge **MOVED** the Board endorse the concept of PA position. Ms. Kellahin **SECONDED** the motion. Dr. Gutierrez asked the discussion be delayed pending further discussion. Dr. La Farge **WITHDREW** the motion and Ms. Kellahin withdrew the second.

**D. Compliance** - Ms. Brandle reported on the physicians who are being monitored for compliance with disciplinary orders.

**E. Executive Director** – Ms. Kinney reviewed the decision last meeting to use signature stamps for the Complaint Committee Chairs on closure letters. Closure letters that vary from standard format will be e-mailed or faxed for approval by the Complaint Committee members before they are mailed. The next Complaint Committee packets should be electronic. She reported on the status of the upgrade to licensing software. Since the procurement process is complex and staff does not have the time or experience, she will be preparing a contract for a “Project Manager.” The contract should be signed in a few weeks and sent for approval by the CIO (Chief Information Officer). A newsletter will be prepared for October and any articles or suggestions are welcome. Finally, the LFC budget hearing will be held on Wednesday, September 25 at 3 p.m. Dr. Romine will not be available on that date, but Ms. Kellahin may be able to attend.

**F. New Mexico Medical Society** - Dr. Haynes and Dr. Boehm presented comments and suggestions of the NMMS Council, based on their review of the proposed statute changes. Each of the suggestions was discussed and the Board agreed with most proposals made by NMMS. The agreed upon changes include:

- §61-6-2,B: leaving “shall” instead of the proposed “may”;
- §61-6-4,G: change to allow for Board members or authorized physicians;
- §61-6-6,A: no change;
- §61-6-7,F: spelling out “NCCPA”;
- §61-6-11,A: acceptable as proposed;
- §61-6-15,D: (31 & 32) add language to except the physician’s spouse;
- §61-6-15,D: (33) delete the word “legible”;
- §61-6-15,D: (33 & 34) consider wording such as “breach of the AMA Code of Ethics”;
- §61-6-15,D: (35): clarify that “under treatment of pain:” relates to the Pain Relief Act and the Chronic Pain Management Rule of the board”;
- §61-6-15,F: will be removed from the Act;
- §61-6-16,C: change the \$2,000 to \$10,000;
- §61-6-29: is acceptable to be removed as it does not belong in the Act, only in the Rules; and
- add a definition of “patient” to include the physician – patient relationship.

NMMS asked the Board to consider incorporating principles from SB 492 (2001; Prohibiting Disciplinary Actions Based on Certain Practices) into the MPA, which shall not be included. However, the Board did discuss the possibility of developing a policy on the use of alternative therapies.

## **12. OLD BUSINESS**

**A. HB170 Psychologist Prescriptive Authority.** Minutes from all the Joint Committee meetings were included in the meeting packet. There were no questions as the status of the work was clear from the background information.

**B. Pain Management Task Force.** The minutes from the final Task Force meeting were in-

cluded in the meeting packet. There were no questions and several of the proposed statute changes are directly related to recommendations of the Task Force.

## **12. NEW BUSINESS**

**A. NMAPA** - Kim Berge, PA-C brought several proposed changes to the MPA as they relate to physician assistants, including a change in the definition of a physician assistant. The NM Academy of Physician Assistants is separate from the PAAC and they are discussing the issue of having a voting PA member appointed to the Board.

**B. Pharmacist Prescriptive Authority** - Johnny Goad presented on behalf of the Board of Pharmacy, as Chair of the Prescriptive Authority Committee. Legislation in 2001 changed the Pharmacy Practice Act to allow pharmacists to prescribe with the approval of the Board of Nursing and BME. Rules have been drafted and a committee of the Board has met to discuss the proposed rules. The initial proposal includes authority for pharmacists to prescribe immunizations and emergency contraceptives, both important issues in NM. The goal is to increase access and the legislative changes were initiated by the Department of Health. He clarified that "dangerous drugs" are synonymous with prescription drugs. Mr. Goad also clarified that after the rule is adopted by the Board of Pharmacy they will start to work on protocols that also need approval of BON and BME.

The BME committee identified several concerns including the vagueness of the training requirements, the lack of tracking by BOP of who had been trained, the time frame for notifying the primary care provider of any prescriptions, and if the formulary for emergency contraceptives should be limited to only progesterone. Laura Brown, MD, addressed the issue of progesterone only products and the role of combined products. She believes all 3 regimens should be approved. Mr. Tinker from the NM Pharmaceutical Association addressed some of the training issues and clarified that one protocol will be approved for use by all prescribing pharmacists. Following discussion on notification of PCP and should there be an identified time frame, Mr. Tinker suggested a fifteen days period and the Board agreed. The Board agreed to accept the training proposal with the removal of item "c" with no specific number of hours required. Dr. Call expressed his concern about the concept, but the law has been enacted. Dr. Gutierrez **MOVED** to accept the proposed rule with changes to the education and notification requirements. Ms. Kellahin **SECONDED** the motion, which **PASSED** with all members voting in favor except Dr. Call, who abstained.

**C. HJM 61 Report.** Ms. Kinney reported that she and Ms. Mohler have been attending meetings of a Task Force formed for HJM 61. The legislature has asked for a study on streamlining the licensing and application process for all healthcare professionals. One potential solution is the use of the statewide application with the addition of one page for Board specific information. This should decrease processing time by allowing the license application and credential application to be handled simultaneously. Hospital Services Corporation (HSC) is a certified Credential Verification Organization like FCVS. A rule change will allow the Board to accept source documents from HSC.

**D. Proposed Rule Changes for November Meeting.** The Board discussed the following proposed rules: a new part on Management of Chronic Pain; changes to Part the AA rule to include provisions for enhanced supervision of new graduates; approval of residency programs that may not be ACGME approved yet but are taken in a recognized US program; modification of Part 2 to allow applicants to have Hospital Services Corporation, a certified credential verification organization, obtain source documents for their application for licensure; and further changes to Part 2 to approve licensing by endorsement using the basic guidelines developed by FSMB. Dr. Gutierrez **MOVED** to approve the draft rules as presented, with a minor change to "Board approved training program" means a program approved by the Accrediting Council on Graduate Medical Education of the American Medical Association or a residency program located within an ACGME approved institution, which has been approved by the Board. Ms. Kellahin **SECONDED** the motion, which **PASSED UNANIMOUSLY**.

**E. Correspondence** Dr. Romine asked for any discussion of the correspondence included in

the meeting packet, commenting that we have finally got a signed agreement with Risk Management that will result in reports coming to the Board when adverse decisions are made against licensed physicians who are represented by State Risk Management.

**6) Letter from Governor re. CRNA Opt-Out.** The only correspondence requiring a response was from the Governor who asked the BME to work with the Board of Nursing to develop a recommendation for the provision that will allow CRNAs to practice without physician supervision. Board members expressed concern that there has not been time to evaluate the impact that prescribing privileges will make with CRNA practice. Dr. Romine will write to the Governor on what has been accomplished to date and ask that some additional time be given to evaluate the new CRNA formulary, since in many ways it makes the opt out provision unnecessary.

**F. Schedule Meetings for Next Year.** Following discussion the following dates were selected: February 20 & 21 (Alb), May 15 & 16 (Alb), August 14 & 15, and November 13 & 14 (Alb). The entire February meeting might be scheduled for Albuquerque because of the parking problems in Santa Fe.

### **13. INFORMAL INTERVIEWS**

**Executive Session: MOTION** was made by Dr. Call and **SECONDED** by Ms. Glidden to go into executive session to discuss matters of licensure. **YES:** La Farge, Glidden, Kellahin, Kankanala, Gutierrez, Pai, Call, and Romine. **MOTION CARRIED.** The following individuals were interviewed in closed session: David Bernitsky, MD, Paul Walsky, MD, and Edward McKenzie, MD.

Following the discussion in closed session, Dr. La Farge **MOVED** to issue a license to **Dr. McKenzie** with standard stipulations for substance abuse, including biannual visits with the Board starting with the November meeting. Ms. Kellahin **SECONDED** the motion, which **PASSED UNANIMOUSLY.** Dr. Call **MOVED** to revise **Dr. Bernitsky's** stipulation to only require biannual visits with the Board. Dr. La Farge **SECONDED** the motion, which **PASSED UNANIMOUSLY.** Dr. La Farge **MOVED** to issue a NCA under the provisions of the Impaired Act to **Johnny Vigil, MD**, unless he agrees to a stipulated agreement with the standard provisions for substance abuse. Ms. Kellahin **SECONDED** the motion, which **PASSED UNANIMOUSLY.** Dr. Gutierrez **MOVED** to summarily suspend the license of **Peter Moorhead, MD**, and issue a NCA under the provisions of the Impaired Act based on reports that he has self-prescribed drugs, a violation of his stipulated agreement with the Board. Ms. Kellahin **SECONDED** the motion, which **PASSED UNANIMOUSLY.**

**THE BOARD RECESSED AT 6:44 P.M.**

### **FRIDAY, August 23, 2002**

#### **CONVENE REGULAR MEETING**

Dr. Romine reconvened the Regular Meeting at 8:06 a.m. All members were present except Ms. Glidden and Ms. Kellahin who arrived within several minutes.

### **14. STRATEGIC PLANNING**

Dr. Romine started the planning discussion by reviewing the notes from the May Planning Retreat. The over-riding theme was the board's desire to be proactive so he suggested everyone discuss what that means. A number of issues were brought up with the consensus that the place to start is hiring a public relations firm to help us develop a marketing strategy. Staff was requested to develop a proposal for the next meeting.

The Board discussed proposed changes to the Medical Practice Act and the strategy for getting the bill introduced. Several controversial issues were discussed including whether the language on appointment of board members should be "may" or "shall" in regards to the appointment of board members. Following further discussion of an appropriate board name the recommendation is the New Mexico Board of Medical Licensure. The issue of physician assistant representation on the board was actively discussed. Dr. Romine pointed out that a physician assistant is the only individual who is not eligible to serve on the Board. The discussion concluded with an agreement to propose an additional "practitioner" member of the Board, making 7

“practitioners” and two public members.

#### **15. & 16. INFORMAL INTERVIEWS**

**Executive Session:** **MOTION** was made by Dr. Kankanala and **SECONDED** by Dr. Pai to go into executive session to discuss matters of licensure. **YES:** La Farge, Glidden, Kellahin, Kankanala, Gutierrez, Pai, Call, and Romine. **MOTION CARRIED.** Dr. Romine stated for the record that the matters discussed in closed session were limited only to those specified in the motion for closure.

The following individuals were interviewed in closed session: Allan Lenetsky, MD, Douglas Zischkau, MD, Jesus Gonzales, MD, Mark Holland, MD, Ronald Trujillo, MD, Julie DiCianno, MD, Scott Budd, MD, Jeff Neidhart, MD, Roland Tong, MD, Henry Garcia, MD, Jonathan Burg, MD, and Marc Denson, MD.

#### **17. ACTIONS RELATED TO EXECUTIVE SESSION**

Dr. Kankanala **MOVED** to approve an Order with **Dr. Lenetsky** whereby he agrees to give up his authority to prescribe schedule 2 and schedule 3 controlled substances. Dr. La Farge **SECONDED** the motion, which **PASSED** with Call and Kellahin **RECUSED**.

Dr. Gutierrez **MOVED** to amend **Dr. DiCianno's** stipulated agreement to allow her to prescribe schedule 3 controlled substances as long as she is working in a group practice. She will also be moved to 6-month visits beginning with November 2002. Dr. Call **SECONDED** the motion, which **PASSED** with Romine **RECUSED**

The Board agreed that work in an emergency room is allowed for **Dr. Tong** under the terms of his stipulation where there is backup available and all other conditions are consistent with his stipulation.

#### **18. CONSIDER ACTION**

**A. Cliff Brashar, MD** - Dr. Gutierrez **MOVED** to summarily suspend his license and issue a NCA under the Impaired Practitioners Act unless the Board receives a voluntary surrender by 5 p.m. Thursday, August 29, 2002. Ms. Kellahin **SECONDED** the motion, which **PASSED** with Kankanala **RECUSED**

**B. Richard Rees, MD** - Mr. Khalsa presented evidence into the record, including Exhibit 1, a copy of the NCA mailed to Dr. Rees on October 26, 2001. Dr. Romine accepted Exhibit 1. Mr. Khalsa presented Exhibit 2, a copy of the original envelope that indicates three attempts at delivery. Dr. Romine accepted Exhibit 2. Mr. Khalsa quoted Section 61-1-4, E of the Uniform Licensing Act which states that if a hearing is not requested by the respondent the Board can take the contemplated action, which is denial of the application.

**Executive Session:** **MOTION** was made by Dr. Gutierrez and **SECONDED** by Dr. La Farge to go into executive session to discuss matters of licensure. **YES:** La Farge, Glidden, Kellahin, Kankanala, Gutierrez, Pai, Call, and Romine. **MOTION CARRIED.** The Board returned to open session. Dr. Romine stated for the record that the matters discussed in closed session were limited only to those specified in the motion for closure.

Dr. Romine **MOVED** to **DENY Dr. Rees'** application for licensure based on the evidence that he refused to accept the NCA and did not request a hearing. Ms. Kellahin **SECONDED** the motion, which **PASSED UNANIMOUSLY.**

**C. Sudarshan K. Singla, MD** – Dr. Call **MOVED** to adopt the Findings of Fact prepared by the Hearing Officer, and grant the Administrative Prosecutor's Motion to Strike the request for a Hearing. Ms. Kellahin **SECONDED** the motion, which **PASSED** on the following vote: **YES:** Glidden, Kellahin, Kankanala, Gutierrez, Pai, Call, and Romine, **RECUSED:** La Farge. Dr. Call **MOVED** to deny Dr. Singla's application for licensure without evidence on the merits based on the action proposed in the NCA. Ms. Kellahin **SECONDED** the motion, which **PASSED** on the following vote: **YES:** Glidden, Kellahin, Kankanala, Gutierrez, Pai, Call, and Romine, **RECUSED:** La Farge.

**D. Jack Dunn, MD** – Ms. Kellahin **MOVED** to adopt the Findings of Fact prepared by the Hear-

ing Officer, that the board has jurisdiction over the respondent and the subject matter, that the conduct violated sections 61-6-15,D,14 and 61-6-15,D,8 of the Medical Practice Act, that the respondent was afforded due process, that his application for license reinstatement be **DENIED**, and that he may reapply after his license has been restored in Texas. Dr. Call **SECONDED** the motion, which **PASSED** on the following vote: **YES**: Glidden, Kellahin, Kankanala, La Farge, Pai, Call, and Romine, **RECUSED**: Gutierrez.

Dr. Romine assigned Ms. Kellahin to sign all the Orders approved by the Board on the preceding cases.

**Executive Session:** **MOTION** was made by Dr. Gutierrez and seconded by Dr. La Farge to go into executive session to discuss matters of licensure. **YES**: La Farge, Glidden, Kellahin, Kankanala, Gutierrez, Pai, Call, and Romine. **MOTION CARRIED.** The Board returned to open session. Dr. Romine stated for the record that the matters discussed in closed session were limited only to those specified in the motion for closure.

Dr. Gutierrez **MOVED** to close complaints #2002-C-022, 2002-C-023, and 2002-C-020 based on no violation of the Act. No second was required. **YES**: La Farge, Kellahin, Kankanala, Call, Pai, and Romine. **RECUSED**: Gutierrez and Glidden. **MOTION CARRIED.**

Dr. Gutierrez **MOVED** to close complaint #2001-C-120 if the physician involved agrees to notify the Board six months before he plans to use his NM license and that this action is not adverse and should not be reported to any data banks. No second was required. **YES**: La Farge, Kellahin, Kankanala, Call, and Romine. **RECUSED**: Gutierrez and Glidden. **MOTION CARRIED.**

Ms. Kellahin **MOVED** to close complaint #2002-A-040 based on no violation of the Medical Practice Act. No second was required. **YES**: La Farge, Kankanala, Pai, Gutierrez, Glidden, and Romine. **RECUSED**: Call and Kellahin. **MOTION CARRIED.**

Dr. Kankanala **MOVED** to close complaints #2002-B-035 and 2002-B-036 based on no violation of the Medical Practice Act. No second was required. **YES**: La Farge, Kellahin, Gutierrez, Glidden, Call, and Romine. **RECUSED**: Kankanala and Pai. **MOTION CARRIED.**

## 19. CONTINUATION OF REPORTS AND NEW BUSINESS

**Assistant Attorney General.** Ms. Thalley reported on cases currently in appellate Courts. The decision on Samir Roy is waiting for the District Court's issuance of the Judgment on the Mandate. Cortelyou decision is waiting for her signature on the Judgment on the Mandate, which will then be filed with the District Court for its approval and issuance of the Judgment. The issuance of Judgment on the Mandate by the District Court is the final step affirming the Board's decisions and closing these cases in all courts in New Mexico. Guttman is before District Court, pending a hearing on the merits of the appeal and decision by the District Court.

Ms. Glidden requested the Board re-open discussion of the draft Management of Chronic Pain rule. She is concerned that the last paragraph is stated in a manner that appears intimidating. Following discussion on ways to make the rule more user friendly and more supportive of appropriate treatment of pain, changes in the draft language were approved. The last sentence will now read: "A licensed physician who appropriately prescribes controlled substances and who follows this rule would be considered to be in compliance with this rule and not be subject to discipline by the Board, absent some other violation of the Medical Practice Act or Board rules."

## 20. LICENSING ISSUES

**A. Henry Stachura, MD** – Mr. Khalsa presented the history on Dr. Stachura, who lost privileges at a NM hospital and was required to inform the board six months in advance of using his NM license. Since that time he has completed 18 months of residency in Nevada, then was later denied licensure in Nevada based on the NM action. Dr. Stachura has been offered a position at the IHS facility in Gallup, but will need to use his NM license. He has very good letters of support from the Nevada residency and will be taking the General Surgery Board exams in October. Dr. Romine **MOVED** to allow Dr. Stachura to use his NM li-



cense to work at the IHS facility, with his permission for his colleagues to report to BME upon request. Dr. La Farge **SECONDED** the motion, which **PASSED UNANIMOUSLY**.

**B. Valerie Robinson, MD** – Following discussion of the examination taken by Dr. Robinson and the existing rules on required examinations, the Board determined Dr. Robinson is not eligible for licensure unless she passes all three steps of the USMLE.

**21. ADJOURN:** There being no further business, the meeting adjourned at 2:15 p.m.

**SUBMITTED:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
**Charlotte Kinney, Executive Director**

**APPROVED:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
**John Romine, M.D., President**

**APPROVED:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
**C. Grant La Farge, M.D., Secretary-Treasurer**

### **MEETING SUMMARY**

August 22-23, 2002

#### **Licensing Actions, in alpha order:**

- Allen, Laura, MD** – offer standard stipulations for substance abuse or NCA for substance abuse  
**Bernitsky, David, MD** – amended stipulation to require visits with board biannually  
**Brashar, Cliff, MD** – approved summary suspension of license and NCA under the Impaired Practitioner Act unless he voluntarily surrenders license within next week  
**DiCianno, Julie, MD** – added authority to prescribe schedule 3 controlled substances to Stipulation  
**Dunn, Jack, MD** – denied request for reinstatement based on violations of the Medical Practice Act  
**Kokesh, Marla** – approved for unrestricted license upon completion of a mini-residency in psychiatry  
**Lenetsky, Allan, MD** – agreed Order to eliminate his authority to prescribe schedule 2 and schedule 3 drugs  
**Lewis, Michael, MD** – obtain consent from him that he will advise the NMBME 6 months prior to using his New Mexico license  
**McFarland, Bruce, MD** – meeting with Board canceled. Will be issued NCA if he doesn't self-report to MTP and TX Board  
**McKenzie, Edward, MD** – approved license with standard stipulations for substance abuse, with biannual visits with board following visit in November  
**Moorhead, Peter, MD** – approved summary suspension of license and NCA for violation stipulated agreement by his use of self-prescribed drugs  
**Murphy, Samuel, MD** – approved unrestricted license  
**Rees, Richard, MD** – denied application on the basis that he refused the NCA and did not request a hearing  
**Robinson, Valerie, MD** – does not meet examination requirements for licensure  
**Singla, Sudarshan, MD** – denied application for licensure based on the allegations that were contained in the NCA, including conduct unbecoming a physician and deceptive statements on a document relating to the practice of medicine  
**Stachura, Henry, MD** – agreed to allow Dr. Stachura to use his NM license  
**Vigil, Johnny, MD** – offer standard stipulations for substance abuse or NCA.