

**NEW MEXICO MEDICAL BOARD  
Emergency Board Meeting  
October 16, 2017  
DRAFT MINUTES**

**Members Present:** Albert Bourbon, PA, Vice Chair  
Jennifer Anderson, Esquire, Secretary Treasurer  
Peter Beaudette, MD  
Phillip Styka, MD

**Members via Teleconference:** Steve Jenkusky, MD  
Steven Komadina, MD  
James Spence, MD  
Karen Carson, MD

**Others Present:** Sondra Frank, J.D., Executive Director  
Yvonne Chicoine, J.D., Chief Legal Counsel  
Debbie Dieterich, Investigations Manager  
Amanda Quintana, PIO/Compliance Manager  
Molly Schmidt-Nowara, J.D., Counsel for John Bray-Morris, MD  
Ryan Villa, J.D., Counsel for James Marc Beverly, PA

**1. CALL TO ORDER / ROLL CALL**

Mr. Bourbon, who was acting as Chairman because Dr. Jenkusky could not attend in person, after establishing the presence of quorum, called the Emergency Meeting of the New Mexico Medical Board to order at 4:11 p.m.

**2. APPROVAL OF AGENDA**

**MOTION** was made by Dr. Styka to approve the Agenda. **SECONDED** by Dr. Beaudette. **YES:** Mr. Bourbon; Dr. Beaudette; Dr. Styka; Ms. Anderson; Dr. Carson; Dr. Spence; Dr. Jenkusky and Dr. Komadina. **MOTION CARRIED.**

**3. LICENSING ISSUES, NEW APPLICANTS / REINSTATEMENTS**

**John Bray-Morris, MD – Case 2017-002 – Consider Motion to Clarify Limitations on Respondent’s Ability to be Present at Owned Medical Clinics to Attend to Business-related Aspects of Medical Practice following Summary Suspension of License.**

**James Marc Beverly, PA – Case 2017-039 - Consider Motion to Clarify Limitations on Respondent’s Ability to be Present at Owned Medical Clinics to Attend to Business-related Aspects of Medical Practice following Summary Suspension of License.**

With the agreement of counsel for Dr. Bray-Morris and Mr. Beverly and approval of the Board, Ms. Chicoine gave a brief explanation and summary of her motion. She explained that Dr. Bray-Morris and Mr. Beverly are co-owners of family practice clinics in Edgewood, Cedar Crest and Moriarity. Mr. Beverly’s license was Summarily Suspended in September 2017 based on allegations of criminal sexual contact with his minor step daughter. Dr. Bray-Morris’s license

was Summarily Suspended in January 2017 based on several allegations including, among other things, his misuse of opiates. In a July 2017 letter, Dr. Bray-Morris was notified by the Board that his presence on site at the clinics in any official capacity would be interpreted by the Board as the unlicensed practice of medicine. After Mr. Beverly's summary suspension, Dr. Bray-Morris questioned why Mr. Beverly could continue to be present at the clinics, prompting the Board to send Mr. Beverly a letter similar to the one sent to Dr. Bray-Morris. Questions then arose whether they, as owners of the clinics, could be on site to attend to business matters, if they were not seeing patients. Ms. Chicoine stated that it is important to the Board, licensees and most importantly the public that the Board clarify its view on this matter.

Ms. Chicoine referred the Board to the Attorney General Opinion 87-39 and the Professional Corporation Act, specifically Section 53-6-12.

Ms. Chicoine stated that she is not suggesting that Dr. Bray-Morris or Mr. Beverly divest themselves of any ownership interest in the clinics only it was difficult to ensure that Dr. Bray-Morris and Mr. Beverly were not violating the Board's order and that the public could be confused by their presence. Some protection against these prospects could be achievable through posting of notices onsite so that those who come to the site know that the individuals are no longer licensed as a matter of public notice; additionally the patients should be notified directly as is required by statute when a practitioner leaves the practice of medicine.

Ms. Schmidt-Nowara (Dr. Bray-Morris' attorney) stated that neither herself nor Mr. Villa (Mr. Beverly's attorney) represent their clients in their business-related matters. She could not speak to the corporate structure of the clinics.

#### **John Bray-Morris, MD – Case no. Case 2017-002**

In regard to Dr. Bray-Morris specifically, Ms. Chicoine stated that if he were allowed back into the clinics he would have access to scripts and other documents that could be used to support his addiction. In addition he has not been participating with MTP since August of 2017 and continues presenting himself publicly as a Medical Director at the clinics.

Ms. Schmidt-Nowara stated there is some ambiguity about what exactly the confines of the Summary Suspension Order is. The issue arose when both owners of the business became summarily suspended, it came to her attention that Mr. Beverly was allowed to enter the premises when Dr. Bray-Morris had been prohibited to do so. The reason she sent a letter to the Board was for clarification of the letter that Dr. Bray-Morris received from Board Staff stating that the Board would consider it the unlicensed practice of medicine if Dr. Bray-Morris attempted to enter any of his clinics to work in any official capacity. Ms. Schmidt Nowara stated that Dr. Bray-Morris is asking for the Board to specify what it means by if he has any physical presence at the clinic it would be considered the unlicensed practice of medicine. Given the complexity of the ownership interest Dr. Bray-Morris has, he is asking if the Board can come up with some access whether it be limited, chaperoned or one time access so that he could obtain access to some of the business/financial-related information he needs.

Ms. Chicoine noted that it was her understanding that the billing for the clinics is performed by an outside entity, substantially reducing the need for on-site presence and that the clinics had full-time managerial employees.

At this point Dr. Styka took over responsibility for chairing the meeting because Mr. Bourbon is recused from Case No. 2017-039 in the matter of James Marc Beverly, PA.

**James Marc Beverly, PA - Case 2017-039**

Ms. Chicoine stated that the Board has been recently made aware of an incident where Mr. Beverly was at the facility and met in a closed room with a minor patient and her father, which could create a perception that Mr. Beverly continues to practice medicine.

Mr. Villa stated that Mr. Beverly indicated to him that he needed access to the clinics to do things like fix a leaky faucet and to deal with some of his fiduciary responsibilities regarding vendors and insurance companies. Mr. Villa stated that Mr. Beverly is not engaged in the practice of medicine, but is trying to juggle the transition of responsibilities. He has no problems taking care of things off site, but initially had to take care of business at the clinic. Mr. Villa states that they are looking for guidance as to what Mr. Beverly can and cannot do.

**EXECUTIVE SESSION: Licensing Issues**

**MOTION** was made by Mr. Bourbon to go into Executive Session pursuant to Section 10-15-1(H) (1) of the Open Meetings Act to discuss matters pertaining to the issuance, suspension, renewal or revocation of a license and disciplinary matters. **SECONDED** by Dr. Beaudette. **YES:** Mr. Bourbon; Dr. Beaudette; Dr. Styka; Ms. Anderson; Dr. Carson; Dr. Spence; Dr. Jenkusky and Dr. Komadina. **MOTION CARRIED.**

**Ms. Chicoine, Ms. Dieterich and Ms. Quintana were excused.**

**Ms. Anderson is recused from both cases and left Executive Session.**

**Mr. Bourbon is recused from Case No. Case 2017-039 and left Executive Session during deliberation of that specific case.**

**Dr. Spence is recused from Case 2017-002 and was not telephonically present during the deliberation of that specific case.**

**OPEN SESSION**

The Board returned to open session. Mr. Bourbon stated for the record that the matters discussed in executive session were limited only to those specified in the motion for Executive Session.

**John Bray-Morris, MD – Case 2017-002 – Consider Motion to Clarify Limitations on Respondent’s Ability to be Present at Owned Medical Clinics to Attend to Business-related Aspects of Medical Practice following Summary Suspension of License.**

**MOTION** was made by Mr. Bourbon that the Board stands by its July 5, 2017, letter to Dr. Bray-Morris which stated – “If you enter any of your clinics in an attempt to work in any official capacity, such as Medical Director, the Board will view [your action] as the unlicensed practice of medicine and will consider it as a further violation of the Medical Practice Act. Specifically refer to NMSA 1978, § 61-6-6 (J)(5) and (6)”. **SECONDED** by Dr. Beaudette. **YES:** Mr. Bourbon; Dr. Beaudette; Dr. Styka; Dr. Carson; Dr. Jenkusky and Dr. Komadina. **RECUSED:** Ms. Anderson and Dr. Spence. **MOTION CARRIED.**

**James Marc Beverly, PA – Case 2017-039 - Consider Motion to Clarify Limitations on Respondent’s Ability to be Present at Owned Medical Clinics to Attend to Business-related Aspects of Medical Practice following Summary Suspension of License.**

**MOTION** was made by Dr. Styka that the Board stands by its October 10, 2017, letter to Mr. Beverly which stated – “The Board wishes to make clear to you that summary suspension of your license means that if you enter any of the clinics you own in an attempt to work in any official capacity the Board will view that conduct as the unlicensed practice of medicine. The “practice of medicine” is defined in Section 61-6-6 of the Medical Practice Act (MPA). The Board will view any conduct by you that falls within that definition as a further violation of the MPA.” In addition the Board voted to clarify that any meeting Mr. Beverly has with any patient is considered the practice of medicine and is prohibited by the MPA following summary suspension of Mr. Beverly’s license to practice medicine as a physician assistant. **SECONDED** by Dr. Beaudette. **YES:** Dr. Beaudette; Dr. Styka; Dr. Carson; Dr. Spence; Dr. Jenkusky and Dr. Komadina. **RECUSED:** Ms. Anderson and Mr. Bourbon. **MOTION CARRIED.**

**4. ADJOURN**

There being no further business before the Board, Mr. Bourbon adjourned the meeting at 5:44 P.M.

SUBMITTED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Sondra Frank, J.D., Executive Director

APPROVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Steven M. Jenkusky, M.D., Chair

APPROVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Albert Bourbon, PA-C, Vice Chair