

NEW MEXICO BOARD OF MEDICAL EXAMINERS
Special Call Meeting
491 Old Santa Fe Trail, Santa Fe, New Mexico
January 5, 2004

MINUTES

Members Present:

John S. Romine, M.D., Chair, Physician Member
Paul Kovnat, M.D., Vice Chair, Physician Member
C. Grant La Farge, M.D., Secretary-Treasurer, Physician Member
Reza Ghadimi, P.A., Physician Assistant Member
Vivian Giudice, M.D., Physician Member – by teleconference
Prakash Ranka, M.D., Physician Member – by teleconference
Steve Weiner, M.D., Physician Member – by teleconference
Maureen Boshier, Public Member – by teleconference
Richard Heim, Public Member – by teleconference

Also Present:

Charlotte Kinney, Executive Director
Corliss Thalley, AAG
Jenny Felmley, PIO
Randy Childress, Attorney

The special meeting of the New Mexico Board of Medical Examiners convened at 5:05 p.m., Monday, January 5, 2004, in the Executive Director's Office, Lamy Building, 491 Old Santa Fe Trail, Santa Fe, New Mexico, **John Romine, M.D.** presiding. Dr. Romine called the roll and a quorum was declared with all members present except for Dr. Ranka, who joined the call at 5:10 p.m.

1. APPROVAL OF AGENDA

Dr. Kovnat **MOVED** the agenda be approved as presented. Dr. La Farge **SECONDED** the motion, which **PASSED UNANIMOUSLY**.

2. LICENSURE MATTERS

A. Zhi Qiao, M.D. Mr. Heim **MOVED** to approve his application for a Public Service License using the transcripts provided by the applicant. Ms. Boshier **SECONDED** the motion. **YES:** Romine, La Farge, Ghadimi, Boshier, Weiner, Giudice, and Heim. Dr. Kovnat and Dr. Ranka **ABSTAINED. MOTION CARRIED.** Members suggested alternative ways to verify education in similar cases where it is difficult or impossible to receive source documents, including the use of the various embassies or consulates.

B. Stanton C. Packard, M.D. Dr. Kovnat **MOVED** to approve his application for licensure and accept his experience in lieu of the second year of postgraduate training. Dr. La Farge **SECONDED** the motion. **YES:** Romine, La Farge, Kovnat, Ghadimi, Boshier, Ranka, Weiner, Giudice, and Heim. **MOTION CARRIED.**

C. Lucia Tia Corro, M.D. Ms. Boshier **MOVED** to approve her application for licensure with the proof of medical education provided by the applicant upon confirmation from the University or Embassy that the copy provided is a true copy of the original transcript. Mr. Heim **SECONDED** the motion. **YES:** Romine, La Farge, Kovnat, Ghadimi, Boshier, Ranka, Weiner, Giudice, and Heim. **MOTION CARRIED.**

D. Pompe Van Meerrdevoort, M.D. Dr. Romine **MOVED** to approve his application for licensure after he passes the SPEX exam or a recertification exam offered by ABOS, since he has not been practicing for the past two years. Dr. La Farge **SECONDED** the motion. **YES:** Romine, La Farge, Kovnat, Ghadimi, Boshier, Ranka, Weiner, Giudice, and Heim. **MOTION CARRIED.**

3. NEW BUSINESS

A. Appoint Additional Member to Psychologist Prescribing Committee. Dr. Romine **MOVED NOT** to appoint any additional members to the Committee. For discussion purposes, Dr. Kovnat **SECONDED** the motion. Dr. La Farge reviewed some background information about how the proposed rules were being developed. Several physicians, including psychiatrists, are very interested in serving on the new committee. Any new members could add serious roadblocks to the legislative mandate. In response to questions, Dr. La Farge discussed the process for final approval by both boards and the opportunity for public comment at the rule hearing. Mr. Heim called the question. **YES:** Romine, La Farge, Kovnat, Ghadimi, Boshier, Ranka, Weiner, Giudice, and Heim. **MOTION CARRIED.**

B. Delegate Signature Authority to Executive Director. Dr. Kovnat **MOVED** the Board delegate authority to the Executive Director to sign complaint closure letters that have been acted on by the Board and subpoenas. Dr. La Farge **SECONDED** the motion. **YES:** Romine, La Farge, Kovnat, Ghadimi, Boshier, Ranka, Weiner, Giudice, and Heim. **MOTION CARRIED.**

C. Appoint Hearing Officers. Dr. Romine appointed Dr. Kovnat to serve as Hearing Officer in Case #2003-014 and #2003-015; Mr. Ghadimi to serve in Case #2003-020; Dr. La Farge to serve in Case # 2003-017; and Mr. Heim to serve in Case # 2003-016.

D. Approve FSMB Travel for Board Members. Dr. Kovnat **MOVED** the Board approve expenditure of the necessary funds for Board members La Farge, Giudice, Ranka, Ghadimi, Heim, and Kovnat to attend the Annual Federation of State Medical Board conference in April 2004. Ms. Boshier **SECONDED** the motion. **YES:** Romine, La Farge, Kovnat, Ghadimi, Boshier, Ranka, Weiner, Giudice, and Heim. **MOTION CARRIED.** Dr. Romine and Ms. Kinney will have their expenses paid by the Federation.

4. ACTIONS

A. Complaint Committee Revised Recommendation on #2003-D-086. Dr. La Farge, as sole member of the Complaint Committee, reviewed the original recommendation and the reasons for the change in recommendation. Dr. La Farge **MOVED** the Board issue a Notice of Contemplated Action to the physician named in the complaint for making a false statement in his response to the complaint, a violation of §61-6-15,D(15) NMSA 1978, and for unprofessional conduct, dishonesty, a violation of 16.10.8.8.H NMAC. No second was required. **YES:** Heim, Kovnat, Weiner, Boshier, Giudice, Ranka, Ghadimi, and Romine. **RECUSED:** La Farge. **MOTION CARRIED.**

B. Accept Voluntary Withdrawal of Application in Case #2003-012, Brenda Valdez, M.D. Mr. Ghadimi **MOVED** the Board accept the withdrawal of Dr. Valdez's application to practice medicine in New Mexico with the conditions included in the request from her attorney. Dr. Ranka **SECONDED** the motion. **YES:** Romine, Ghadimi, Boshier, Ranka, Weiner, and Giudice. **RECUSED:** La Farge, Kovnat, and Heim. **MOTION CARRIED.**

C. Accept Voluntary Withdrawal of Application in Case #2003-018, Edward O'Brien, M.D. Dr. Romine **MOVED** the Board accept the withdrawal of Dr. O'Brien's application to practice medicine in New Mexico with the condition that it will be reported to the HIPDB data bank as required by law. Ms. Boshier **SECONDED** the motion. **YES:** Romine, Kovnat, Ghadimi, Boshier, Ranka, Weiner, Giudice, and Heim. **RECUSED:** La Farge. **MOTION CARRIED.**

D. Reschedule Hearing in Case #2003-011, Robert Steller, M.D. Ms. Boshier **MOVED** the

Board reschedule Dr. Steller's hearing, at his request, to the February Board meeting. Mr. Heim **SECONDED** the motion. **YES:** Romine, Kovnat, Ghadimi, Boshier, Ranka, Weiner, Giudice, and Heim. **RECUSED:** La Farge. **MOTION CARRIED.**

Dr. Weiner, Dr. Giudice, Ms. Boshier, and Ms. Thalley left the meeting as they were recused, and Mr. Childress joined the meeting at this time.

E. Decision in Case #2003-009, Jonathan Burg, M.D.

Dr. La Farge **MOVED** the Board go into executive session to discuss matters of licensure. Dr. Romine **SECONDED** the motion. **YES:** La Farge, Ghadimi, Kovnat, Ranka, Romine, and Heim. **MOTION CARRIED.** The Board returned to open session. Dr. Romine stated for the record that the matters discussed in closed session were limited to only those specified in the motion for closure.

Mr. Heim **MOVED** to accept the Findings of Fact, Conclusions of Law, Decision and Order presented by Mr. Childress with a change in the requirement that a practice monitor be from NMMRA, to include:

1. The Respondent's license shall be suspended indefinitely. Respondent shall not practice medicine in New Mexico or attempt or offer to practice medicine in New Mexico during the period of suspension without further order of the Board. To become eligible to practice under a license with stipulations, Respondent shall comply with the following conditions: complete formal training in a course approved by the Board on issues relating to patient boundaries and professional ethics; arrange for a practice monitor acceptable to the Board; arrange for all treating physicians, therapists, and counselors to promptly inform the Board if they observe any regression in Respondent's condition or behavior and provide quarterly reports to the Board; arrange for a male physician to serve as a mentor; report to the Board at the each quarterly meeting until the Board is satisfied that the conditions to resume limited practice have been met.

Upon demonstrating compliance with each of these conditions, Respondent may be permitted to practice, with a stipulated license, in the manner limited by the Board subject to the practice conditions imposed by the Board below.

2. Prior to beginning Respondent's limited practice as set out below, Respondent shall stipulate in writing to each and all of the conditions set out below.

Upon satisfactory completion of the above conditions, Respondent's suspension may be revoked and Respondent may practice medicine in New Mexico subject to written stipulation to strict compliance with the following conditions:

1) Respondent shall practice medicine only with male patients and will not practice, offer to practice, attempt to practice, or be involved in any manner whatsoever with any female patient until further order of the Board. Respondent shall arrange with his mentoring physician, or through another procedure acceptable to the Board, to contact each current female patient of Respondent to refer such patients to other physicians. In referring current female patients to other physicians, Respondent shall communicate with female patients only through the mentor or other physician and will have no personal contact or communication with the female patients. In communicating with any new female patients who may inquire about becoming patients, Respondent shall communicate with female patients only through office staff and will have no personal contact or communication with female patients.

2) Respondent shall abstain completely from the use of mind-altering substances, controlled substances or alcoholic beverages except as legitimately prescribed by a licensed physician, and Respondent shall immediately notify the Board of any drug or alcohol relapse.

3) Respondent shall be an active participant and comply with all guidelines and directives of the New Mexico Monitored Treatment Program, and the Board will request stricter monitoring of Respondent by MTP and request more timely reporting of any potential lapses in strict compliance with these conditions.

4) Respondent, as part of participation in the Monitored Treatment Program, shall submit to

random biological fluid testing at the request of MTP, the Board, the mentor physician, the monitor or the Board's other designee.

5) Respondent shall waive any right to confidentiality he may have with respect to the data collected by any monitoring program and with respect to information he provides to his mentor and treating professionals, including his treating psychiatrist, therapists and counselors, to that they may provide information to the Board.

6) Respondent shall authorize any monitoring program, his physicians and other treating professionals to release any and all reports to the Board. Respondent shall be responsible to seek and obtain, and provide to the Board, quarterly reports from each physician, therapist, counselor, or other treating professional, regarding Respondent's medical and therapy progress and condition, including Respondent's strict compliance with these conditions for continued medical practice.

7) Respondent shall continue with his current medical care and have his physicians, therapist and treating professionals send quarterly reports to the Board, or report more frequently as requested by the Board. Respondent shall be responsible to seek, obtain and supply such reports. Respondent shall continue all medication as directed by his treating physicians, unless advised otherwise by his treating physicians. Respondent shall report to the Board any changes of medication or termination of medication no less frequently than quarterly.

8) Respondent shall promptly, within ten (10) days, advise the Board of any change of physicians, therapists or counselors. Upon termination of treatment by any physician, therapist or counselor, Respondent shall obtain and provide to the Board a report by such physician, therapist or counselor.

9) Respondent shall appear before the Board on a quarterly basis, or upon the Board's request, to report regarding his practice, progress, and strict compliance with these conditions. Respondent shall inform the Board at each appearance if there has been any breach of these conditions or if Respondent has any questions regarding whether he is in strict compliance with these conditions. Respondent shall have sole responsibility to seek clarification of any questions regarding the meaning and scope of each condition and shall have sole responsibility to ensure that his practice meets each condition. As a part of each report to the Board, Respondent shall attest to his strict compliance with these conditions.

10) Respondent shall promptly advise the Board, with ten (10) days, of any failure to comply with these conditions between reporting periods.

11) Respondent shall practice in a practice setting that includes other physicians and shall report to the Board the details of the setting and provide floor plans, office layout, and the identity of all other physicians and office staff employed in such setting. The Board may require modification to the setting after obtaining the details from Respondent, after any quarterly report, or upon receipt of any information that causes the Board to determine that modification may be appropriate.

12) Respondent shall abstain from any sexual conduct with patients or former patients.

13) Respondent shall abstain from disclosing any personal information to patients or former patients.

14) Respondent shall continue participation in 12-step treatment and will attend at least 3 meetings per week of Alcoholics Anonymous or other appropriate 12-step program, and will maintain a sponsor and stay in regular contact with his sponsor.

15) Respondent will comply with all federal, state and local laws.

16) Respondent agrees that any violation of any condition herein will result in immediate suspension of his medical license and agrees that any violation of this order will be grounds for permanent revocation of his medical license.

17) In the event that Respondent breaches any of the terms of this Stipulation and Order, the Board may immediately and summarily suspend his license to practice as a physician in New Mexico, each breach shall constitute conduct unbecoming in a person licensed to practice medicine as set forth in NMSA 1978 Section 61-6-15(D), and each breach shall be grounds for permanent revocation of

Respondents license.

In addition, the Board delegated Dr. La Farge to sign the Order. Dr. Kovnat **SECONDED** the motion. **YES:** Romine, La Farge, Ghadimi, Kovnat, Ranka, and Heim. **MOTION CARRIED.**

5. ADJOURN

There being no further business, the meeting adjourned at 6:35 p.m.

SUBMITTED: _____ **Date:** _____
Charlotte Kinney, Executive Director

APPROVED: _____ **Date:** _____
C. Grant La Farge, M.D., Secretary

APPROVED: _____ **Date:** _____
John Romine, M.D., President