

NEW MEXICO BOARD OF MEDICAL EXAMINERS
Fourth Quarterly Meeting
491 Old Santa Fe Trail, Santa Fe, New Mexico
May 15-16, 2003

MINUTES

1. CALL TO ORDER

The regular meeting of the New Mexico Board of Medical Examiners convened at 8:15 a.m., Thursday, May 15, 2003 in the second floor conference room, Lamy Building, 491 Old Santa Fe Trail, Santa Fe, New Mexico, **John S. Romine, M.D.** presiding. A quorum was declared, with all members present.

Members Present:

John S. Romine, M.D., President, Physician Member
C. Grant La Farge, M.D., Secretary-Treasurer, Physician Member
Vivian Giudice, M.D., Physician Member
Paul Kovnat, M.D., Physician Member
Prakash Ranka, M.D., Physician Member
Steven Weiner, M.D., Physician Member
Maureen Boshier, Public Member
Dick Heim, Public Member

Also Present:

G.T.S. Khalsa, Board Prosecutor
Angela Martinez, Administrator
Jenny Felmley, P.I.O.
Corliss Thalley, A.A.G.
Greg Geisler, LFC
Dan Otero, PAAC
Bill Wahlert, PAAC (present on Thursday only)
Lori Daggett, PAAC
A list of all attendees is attached to these minutes

2. APPROVAL OF AGENDA

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

3. APPROVAL OF MINUTES

Dr. La Farge **MOVED** the minutes of the April 19, 2003 regular meeting be approved with the following changes: add titles to PAAC members, and use the term 'executive' or 'closed' session consistently. Mr. Heim **SECONDED** the motion, which **PASSED UNANIMOUSLY**.

4. NM MONITORED TREATMENT PROGRAM REPORT

Mary Miesem, and John Thayer were present to discuss the status of mandatory participants.

Executive Session: **MOTION** was made by Dr. La Farge and seconded by Dr. Kovnat to go into executive session to discuss matters of licensure. **YES:** Romine, La Farge, Giudice, Kovnat, Ranka, Weiner, Boshier and Heim. **MOTION CARRIED.** The Board returned to open session. Dr. Romine stated for the record that the matters discussed in executive session were limited to only those specified in the motion for closure.

Mr. Thayer reported that activity at MTP remains high. Our contract with MTP ends on June 30, 2003, and Mr. Thayer brought a letter from Mr. Marshall asking the Board for an increase in funding for the next

contract period. Mr. Thayer said that MTP is also considering raising its fees slightly to cover rising costs.

5. REPORTS

A. A.G. Presentation. Mr. John Grubescic from the Attorney General's Office presented the new board members with a summary of how the Attorney General's Office assists the Board.

B. A.A.G. Report. Ms. Thalley reported on the appeal of Dr. Guttman. The case currently has a petition for certiorari pending with the State Supreme Court.

6. COMPLAINT COMMITTEE REPORTS

Executive Session: MOTION was made by Ms. Boshier and seconded by Dr. Weiner to go into executive session to discuss matters of complaints and licensure. **YES:** Romine, La Farge, Giudice, Kovnat, Ranka, Weiner, Boshier and Heim. **MOTION CARRIED.** The Board returned to open session. Dr. Romine stated for the record that the matters discussed in executive session were limited to only those specified in the motion for closure.

7. ACTIONS RELATED TO EXECUTIVE SESSION

A. Complaint Committee A. On behalf of Complaint Committee A, Dr. Weiner **MOVED** that the following complaint cases be closed as there was no violation of the Medical Practice Act or rules: 2002-A-045, 2002-A-057, 2002-A-086, 2002-A-087, 2002-A-093, 2002-A-098, 2002-A-101, 2002-A-108, 2002-A-114, 2002-A-123, 2002-A-125, 2002-A-127, 2002-A-129 and 2002-A-135. No second was required. **YES:** Romine, La Farge, Giudice, Kovnat, Ranka and Heim. **RECUSED:** Weiner and Boshier. **MOTION CARRIED.**

Dr. Weiner **MOVED** the Board issue a Notice of Contemplated Action for conviction of a felony in case #2001-A-126, (**Frederick Cohn, MD, #63-10**). No second was required. **YES:** Romine, La Farge, Giudice, Kovnat, Ranka and Heim. **RECUSED:** Weiner and Boshier. **MOTION CARRIED.**

B. Complaint Committee B. On behalf of Complaint Committee B, Dr. Giudice **MOVED** that the following complaint cases be closed as there was no violation of the Medical Practice Act or rules: 2002-B-059, 2002-B-072, 2002-B-089, 2002-B-095, 2002-B-102, 2002-B-103, 2002-B-110, 2002-B-121, 2002-B-133, 2002-B-145, and 2002-B-147. No second was required. **YES:** Romine, La Farge, Kovnat, Weiner, Boshier and Heim. **RECUSED:** Giudice and Ranka. **MOTION CARRIED.** Weiner recused himself from the vote on 2002-B-145.

Dr. Giudice **MOVED** the Board issue a Notice of Contemplated Action for revocation of a resident license, case #2002-B-049, (**Griggsby Wright, MD**). No second was required. **YES:** Romine, La Farge, Kovnat, Weiner, Boshier and Heim. **RECUSED:** Giudice and Ranka. **MOTION CARRIED.**

Dr. Giudice **MOVED** the Board refer the physician in case # 2002-B-076 to an Impaired Physician Committee. No second was required. **YES:** Romine, La Farge, Kovnat, Weiner, Boshier and Heim. **RECUSED:** Giudice and Ranka. **MOTION CARRIED.**

Dr. Giudice **MOVED** the Board refer the physician in case # 2002-B-112 to an Impaired Physician Committee. No second was required. **YES:** Romine, La Farge, Kovnat, Weiner, Boshier and Heim. **RECUSED:** Giudice and Ranka. **MOTION CARRIED.**

C. Complaint Committee C. On behalf of Complaint Committee C, Dr. Kovnat **MOVED** that the following complaint cases be closed as there was no violation of the Medical Practice Act or rules: 2001-C-156, 2002-C-028, 2002-C-056, 2002-C-066, 2002-C-067, 2002-C-084, 2002-C-090, 2002-C-091, 2002-C-096, 2002-C-100, 2002-C-105, 2002-C-107 and 2002-C-109. No second was required. **YES:** Romine, La Farge, Giudice, Ranka, Weiner and Boshier. **RECUSED:** Kovnat and Heim. **MOTION CARRIED.**

Dr. Kovnat **MOVED** that in case #2002-C-113 the Board's prosecutor file an injunction in the appropriate courts to require the individual to cease practicing medicine without a license (**David Trudeau**). No second was required. **YES:** Romine, La Farge, Giudice, Ranka, Weiner and Boshier. **RECUSED:** Kovnat and Heim. **MOTION CARRIED.**

D. Complaint Committee D: On behalf of Complaint Committee D, Dr. La Farge **MOVED** the Board require the physician pay a fine of \$500 for practicing without a license in lieu of action in case # 2003-D-001 (**Richard Cooper, MD, #2002-0250**). No second was required. **YES:** Romine, Giudice, Kovnat, Ranka, Weiner, Boshier and Heim. **RECUSED:** La Farge. **MOTION CARRIED.**

On behalf of Complaint Committee D, Dr. La Farge **MOVED** the Board offer a stipulated license consistent with the action in Indiana in lieu of an NCA to deny his request for licensure in case # 2003-D-006 (**Gregory Koury, MD**). No second was required. **YES:** Romine, Giudice, Kovnat, Ranka, Weiner, Boshier and Heim. **RECUSED:** La Farge. **MOTION CARRIED.**

E. Complaint Committee E: On behalf of Complaint Committee E, Dr. Romine **MOVED** the Board summarily suspend the license of the physician and issue a Notice of Contemplated Action for violation of his contract with NMMRA in case # 2003-E-002, (**Jesus Gonzalez, MD, #85-36**). No second was required. **YES:** La Farge, Giudice, Kovnat, Ranka, Weiner, Boshier and Heim. **RECUSED:** Romine. **MOTION CARRIED.**

F. Impaired Physician Committee: In case #2001-C-132, Dr. La Farge **MOVED** that Dr. Henry Bramanti be offered a stipulated license based on the recommendations of the Impaired Physician Committee in lieu of an Notice of Contemplated Action. The stipulations shall include being monitored on a monthly basis by a physician of record, with reports to the Board as requested. Mr. Heim **SECONDED** the motion, which **PASSED UNANIMOUSLY.**

8. LICENSING ISSUES

Executive Session: **MOTION** was made by Dr. La Farge to go into executive session to discuss matters of complaints and licensure. The motion was **SECONDED** by Ms. Boshier and **PASSED UNANIMOUSLY.** The following physicians were interviewed in executive session: **Cesar Villarreal, MD, Antoine Antypas, MD, Nadine Halko, MD, Saurabh Joneja, MD, and Gregory Koury, MD.** The Board returned to open session. Dr. Romine stated for the record that the matters discussed in executive session were limited to only those specified in the motion for closure.

Dr. Ranka **MOVED** that Dr. Villareal be issued an unrestricted license to practice medicine in New Mexico. Dr. Kovnat **SECONDED** the motion, which **PASSED UNANIMOUSLY.** Dr. Kovnat **MOVED** that Dr. Antypas be licensed after receiving a letter from Ft. Bayard saying they need his services, and to delegate authority to Dr. La Farge to review and issue the license. Dr. Romine **SECONDED** the motion. **YES:** Romine, La Farge, Kovnat, Weiner, Boshier and Heim. **ABSTAIN:** Giudice and Ranka. **MOTION CARRIED.** Dr. La Farge **MOVED** that Dr. Halko be issued an unrestricted license after passing the SPEX exam with a score of 75 and not more than three attempts. Dr. Weiner **SECONDED** the motion, which **PASSED UNANIMOUSLY.** Dr. La Farge **MOVED** that Dr. Joneja be issued an unrestricted license to practice medicine in New Mexico. Dr. Ranka **SECONDED** the motion, which **PASSED UNANIMOUSLY.**

RECESS FOR LUNCH

Ms. Boshier **MOVED** that the Board reconsider the prior decision on Dr. Antypas, because there may be an ADA issue, and table the case for further investigation. Dr. La Farge **SECONDED** the motion. **YES:** Romine, La Farge, Kovnat, Ranka, Weiner, Boshier and Heim. **MOTION CARRIED.**

5. REPORTS, cont.

C. President. After discussing the existing contract with MTP, and speaking with Executive Director Charlotte Kinney via telephone, Ms. Boshier **MOVED** to increase the contract to \$132,000 for FY04. Mr. Heim **SECONDED** the motion, which **PASSED UNANIMOUSLY.**

Dr. Romine explained that the new version of the Medical Practice Act specifically permits the board to hire a Medical Director. To date, Dr. La Farge has served in a dual capacity, as Board Secretary and under contract as the Medical Director. The board agreed that Dr. La Farge has done an excellent job, and Dr. Ranka **MOVED** to extend his contract with an increased salary of \$58,000 plus GRT. Mr. Heim

SECONDED the motion, which **PASSED UNANIMOUSLY**.

D. Secretary-Treasurer. Dr. La Farge and Ms. Brandle presented the current budget status reports. Ms. Brandle noted ways the BME is planning to cut costs, such as returning the State car, as well as significant new expenditures, such as a new database and the need to move into rented office space. Greg Geisler, Legislative Finance Committee (LFC) Analyst, introduced himself, and commented that the LFC is aware of the coming costs of moving the offices, and said that the LFC will support the board's need for funding for this change.

E. Compliance Report. Ms. Brandle presented the report and updated status on each physician being tracked for compliance with final Orders.

F. Executive Director. In Ms. Kinney's absence, Ms. Felmley noted that the current licenses are quite large, which makes them difficult to mail and to frame, and that they are currently individually hand-lettered. The staff would like to change to a smaller format that can be printed on the office color printer, and Ms. Felmley asked if the board would like to appoint a committee for the redesign, but board members indicated that staff should develop a proposal and present to the board at the next meeting.

G. Physician Assistant Advisory Committee. Mr. Otero noted that changes to the Medical Practice Act mean that by the next board meeting, there will no longer be a PAAC, and he expressed the appreciation of the PAAC members for the opportunity to participate in board activities.

9. NEW BUSINESS

A. Election of Officers. Dr. Kovnat **MOVED** to re-elect Dr. Romine as chairman. Dr. Weiner **SECONDED** the motion, which **PASSED UNANIMOUSLY**. Dr. La Farge **MOVED** to elect Dr. Kovnat as vice-chairman. Ms. Boshier **SECONDED** the motion, which **PASSED UNANIMOUSLY**. Dr. Kovnat **MOVED** to elect Dr. La Farge as secretary-treasurer. Mr. Heim **SECONDED** the motion, which **PASSED UNANIMOUSLY**.

B. Adopt Open Meetings Resolution. Dr. Kovnat **MOVED** to approve the Open Meetings Resolution. Dr. Ranka **SECONDED** the motion, which **PASSED UNANIMOUSLY**.

C. Approve Pharmacist Prescribing Protocols. Dr. Ranka **MOVED** to approve the draft pharmacist prescribing protocols. Dr. LaFarge **SECONDED** the motion, which **PASSED** with Dr. Giudice voting against.

D. Introduction of LFC Analyst. Greg Geisler.

E. Follow up on Legislation. Ms. Felmley presented a matrix of legislation introduced during the last legislative session that was of interest to the board.

F. Schedule Meeting Dates for Next Year. Dr. Kovnat **MOVED** to approve the following dates for Board Meetings in 2004: February 19 and 20, May 20 and 21, August 19 and 20 and November 18 and 19. Dr. Weiner **SECONDED** the motion, which **PASSED UNANIMOUSLY**.

G. Draft Rule Change, PA Licensing. On the recommendation of the PA Advisory Committee, Mr. Otero requested approval of the draft rule. Dr. Kovnat **MOVED** to approve the draft rule change to Part 15 on Physician Assistant Licensing. The motion was **SECONDED** by Dr. La Farge, and **PASSED UNANIMOUSLY**.

H. Health Policy Commission Info on Physician Practice Survey. Kevin McMullan from the Health Policy Commission gave a presentation on the results of the recent HPC physician survey.

I. Correspondence. Ms. Felmley advised the board members of several pieces of correspondence received recently, including a letter from First Lady Barbara Richardson in support of pharmacist prescribing.

10. INFORMAL INTERVIEWS

Executive Session: **MOTION** was made by Dr. La Farge and **SECONDED** by Dr. Ranka to go into executive session to discuss matters of licensure. **YES:** Romine, La Farge, Giudice, Kovnat, Ranka, Weiner, Boshier and Heim. **MOTION CARRIED.** Edward Gilmour, MD and Paul Walsky, MD were interviewed in executive session. The Board returned to open session. Dr. Romine stated for the record that the matters discussed in executive session were limited to only those specified in the motion for closure.

Dr. Romine **MOVED** to remove all stipulations on Dr. Gilmour's license. Ms. Boshier **SECONDED** the motion, which **PASSED UNANIMOUSLY.**

Dr. La Farge **MOVED** to amend Dr. Walsky's stipulations to restore his DEA permit and allow Schedule 2 and 3 drugs to be prescribed, to continue to receive mental health monitoring and to report back to the board at its November meeting. Mr. Heim **SECONDED** the motion, which **PASSED UNANIMOUSLY.** Dr. La Farge **MOVED** to further amend Dr. Walsky's stipulation to discontinue MTP and end drug screening. Dr. Weiner **SECONDED** the motion, which **PASSED UNANIMOUSLY.**

The following physicians were interviewed in open session: **Scott Budd, MD, Allan Lenetsky, MD, Rolando Tong, MD, David Bernitsky, MD.**

Dr. Budd told the Board that he has been released from his Arizona stipulations, and that he concluded his program with MTP in February 2003. He said he has been sober for 5 and a half years, and that he has appreciated the Board's fairness and compassion. Dr. La Farge **MOVED** to remove all stipulations on Dr. Budd's license. Dr. Weiner **SECONDED** the motion, which **PASSED UNANIMOUSLY.**

Dr. Lenetsky appeared before the Board, and Dr. Kovnat and Dr. La Farge **EXCUSED** themselves from the meeting before the discussion began. Dr. Lenetsky told the Board that he has been compliant with the Board's previous order, that he has taken many CME courses and that he regularly refers patients with chronic pain to his associates or to pain clinics. **EXECUTIVE SESSION: MOTION** was made by Mr. Heim and **SECONDED** by Dr. Giudice to go into executive session to discuss matters of licensure. **YES:** Romine, Giudice, Ranka, Weiner, Boshier and Heim. **RECUSED AND EXCUSED:** Kovnat and La Farge. **MOTION CARRIED.** The Board returned to open session. Dr. Romine stated for the record that the matters discussed in executive session were limited to only those specified in the motion for closure. Dr. Giudice **MOVED** to amend Dr. Lenetsky's stipulations to restore the prescribing of Schedule 2 and 3 drugs, provided that the doctor will keep a log of all Schedule 2 and 3 drugs, log to include patient name, diagnosis, and medication prescribed. Dr. Lenetsky will keep the log for at least 6 months, and the log for each month shall be sent to the board by the 15th day of the following month. In addition, Dr. Lenetsky is to send the board a letter stating that he will not treat patients for chronic pain. Dr. Ranka **SECONDED** the motion, **YES:** Romine, Giudice, Ranka, Boshier and Heim. **RECUSED:** Weiner. **RECUSED AND EXCUSED:** Kovnat and La Farge. **MOTION CARRIED.**

Dr. Tong told the Board that he is not currently practicing because he has had difficulty finding a position that meets the stipulations of his license. He is currently looking for work in NM, and asked the Board to end the stipulations on his license and allow him to return to solo practice. Dr. Tong stated that he had been evaluated by 7 different psychologists/psychiatrists, none of whom have found major problems. He also told the Board that he has taken the SPEX exam to verify his continued competence. The Board discussed the option of allowing Dr. Tong to return to solo practice, with monitoring by NMMRA, and Dr. Tong agreed to this solution. **EXECUTIVE SESSION: MOTION** was made by Ms. Boshier and **SECONDED** by Dr. Ranka to go into executive session to discuss matters of licensure. **YES:** Romine, La Farge, Giudice, Kovnat, Ranka, Weiner, Boshier and Heim. **MOTION CARRIED.** The Board returned to open session. Dr. Romine stated for the record that the matters discussed in executive session were limited to only those specified in the motion for closure. Dr. Kovnat **MOVED** to amend Dr. Tong's stipulation to

allow him to enter into solo practice, monitored by NMMRA for 3 years; to require him to submit his recent CPEP report to the board; and to discontinue MTP after the board receives a letter from MTP confirming that Dr. Tong has had 5 years of monitored sobriety. Dr. Weiner **SECONDED** the motion, which **PASSED UNANIMOUSLY**.

Dr. Bernitsky told the Board that his surgical practice is doing well, and that he is having success controlling his substance abuse issues.

THE BOARD RECESSED AT 5:30 p.m.

FRIDAY, MAY 16, 2003

CONVENE MEETING

Dr. Romine reconvened the Regular Meeting at the New Mexico Hospital Association conference room, 2121 Osuna Rd NE, Albuquerque, NM at 8:41 a.m. A quorum was declared with all members present.

12. INFORMAL INTERVIEW

Executive Session: **MOTION** was made by Dr. La Farge and **SECONDED** by Dr. Ranka to go into executive session to discuss matters of licensure. **YES:** Romine, La Farge, Giudice, Kovnat, Ranka, Weiner, Boshier and Heim. **MOTION CARRIED.** The Board returned to open session. Dr. Romine stated for the record that the matters discussed in executive session were limited only to those specified in the motion for closure.

The following licensees were interviewed in executive session:

Henry Garcia, MD, Ronald Trujillo, MD, Jonathan Burg, MD, Julie DiCianno, MD, Betty Newville, MD, Edward McKenzie, MD, Jeff Neidhart, MD, Mark Holland, MD, Mark Denson, MD, Robert Biazak, MD, Michele Moro, MD, Kathleen Van Osten, MD, David Benahum, MD, Joan Lewis, MD, Laura Allen, MD.

13. ACTIONS RELATED TO EXECUTIVE SESSION

Dr. La Farge **MOVED** to remove all stipulations from Dr. Biazak's and Dr. Moro's licenses. Dr. Weiner **SECONDED** the motion, which **PASSED UNANIMOUSLY**.

Dr. Romine **MOVED** to remove all stipulations from Dr. Newville's license. Dr. La Farge **SECONDED** the motion, which **PASSED UNANIMOUSLY**.

Dr. Romine **MOVED** to amend Dr. Garcia's stipulations to require biannual meetings with the Board. Dr. La Farge **SECONDED** the motion, which **PASSED UNANIMOUSLY**.

14. OLD BUSINESS

Update on Psychologist Prescribing. Dr. La Farge provided the board with a summary of the work to date of the Psychologist Prescribing work group.

15. STRATEGIC PLANNING SESSION. Board members engaged in a lengthy discussion about a wide variety of issues facing the board, and new initiatives that the board might undertake. In particular, the new members expressed interest in finding ways to educate health care professionals and consumers about the activities of the board, and new ways to better serve consumers. When discussing issues of possibly requiring CMEs for pain management, substance abuse and medical ethics, the board decided to add presentations on these topics to the agenda for the August meeting.

16. ADJOURN: The meeting adjourned at 3:00 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

May 15 – 16, 2003

Licensing Actions, in alpha order:

Bramanti, Henry, MD, #98-230 – offer stipulated license requiring monthly monitoring by physician and reports to the board in lieu of NCA to restrict, revoke or suspend license.

Biazak, Robert, MD, #87-176 – removed all stipulations and granted unrestricted license

Budd, Scott, MD, #99-171 – removed all stipulations and granted unrestricted license

Cohn, Frederick, MD, #63-10 – approved NCA to restrict, revoke or suspend license based on felony conviction in Kentucky.

Cooper, Richard, MD, #2002-0250 – approved \$500 fine for practicing without a license

Garcia, Henry, MD, #81-198 – amended Stipulation to require biannual meetings with the Board, instead of quarterly.

Gilmour, Edward, MD, #95-244 – removed all stipulations and granted unrestricted license

Gonzales, Jesus, MD, #85-36 - approved NCA to restrict, revoke or suspend license and approved Summary Suspension of license based on violation of Stipulated Order

Halko, Nadine, MD – approved unrestricted license after passing the SPEX exam with a score of 75 and not more than three attempts

Joneja, Saurabh, MD – approved unrestricted license to practice medicine in New Mexico

Koury, Gregory, MD – approved stipulated license restricting his practice consistent with action in Indiana in lieu of NCA to deny.

Lenetsky, Allan, MD, #77-208 – amended stipulation to restore prescribing of Schedule 2 and 3 drugs, provided physician keeps a log for at least six months and provides it to the Board by the 15th of the following month, and physician agrees to not treat patients for chronic pain.

Moro, Michelle, MD, #98-343 – removed all stipulations and granted unrestricted license

Newville, Betty, MD, #89-268 – removed all stipulations and granted unrestricted license

Tong, Rolando, MD, #89-109 – amended stipulation to allow him to enter into solo practice monitored by NMMRA for three years, requiring submission of CPEP report to board, and discontinuing MTP after five years of monitored sobriety

Trudeau, David – requested Board prosecutor file an injunction in the appropriate courts to require the individual to cease practicing medicine without a license

Walsky, Paul, MD, #78-283 – amended stipulations to restore DEA permit and allow Schedule 2 and 3 drugs to be prescribed, to require continued mental health monitoring by MTP, and to discontinue required drug screening

Wright, Griggsby, MD, #99-R-127 – approved NCA for revocation of a resident license, delayed at May 29, 2003 meeting

Villarreal, Cesar, MD – approved unrestricted license to practice medicine in New Mexico

Policy Actions

Approved Pharmacist Prescribing Protocols