

NEW MEXICO MEDICAL BOARD
Second Quarterly Meeting
May 20-21, 2004

MINUTES

1. CALL TO ORDER

The regular meeting of the New Mexico Medical Board convened at 8:17 a.m., Thursday, May 20, 2004 at the Board Conference room in Santa Fe, New Mexico, **John S. Romine, M.D.** presiding. A quorum was declared, with all members present except for Dr. La Farge and Dr. Ranka who were excused and participated in portions of the meeting by teleconference.

Members Present:

John S. Romine, M.D., Chairman
C. Grant La Farge, M.D., Secretary-Treasurer (present by phone for portions of the meeting)
Paul Kovnat, M.D., Vice-Chair
Vivian Giudice, M.D.
Prakash Ranka, M.D. (present by phone for portions of the meeting)
Steven Weiner, M.D.
Reza Ghadimi, P.A.,
Dick Heim, Public Member
Maureen Boshier, Public Member

Also Present:

Charlotte Kinney, Executive Director
Corliss Thalley, A.A.G.
G.T.S. Khalsa, Board Prosecutor
Jenny Felmley, P.I.O.
Lynn Tipton, Administrative Assistant
A list of all attendees is attached to these minutes

2. APPROVAL OF AGENDA

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

3. APPROVAL OF MINUTES

Dr. Kovnat **MOVED** the minutes of the February 19-20, 2004 regular meeting be approved as presented. Ms. Boshier **SECONDED** the motion, which **PASSED UNANIMOUSLY**.

4. NM MONITORED TREATMENT PROGRAM REPORT

Mr. Khalsa asked the Board to expand the language of the standard stipulations for substance abuse to make it less restrictive in the information that will be shared with the Board. Ms Boshier **MOVED** the stipulations for substance abuse be amended so that paragraph 4 reads "information gathered" instead of "data collected," and "information" instead of "test results." Dr. Kovnat **SECONDED** the motion, which **PASSED UNANIMOUSLY**.

Executive Session: MOTION was made by Mr. Heim and seconded by Ms. Boshier to go into executive session to discuss matters of licensure. **YES:** Heim, Ghadimi, Boshier, Romine, Kovnat, Weiner, and Heim. **MOTION CARRIED.**

Jaye Swoboda, MD, Brett Nelson, and John Thayer were present to discuss the status of mandatory participants. 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.

Based on a request from staff, Dr. Swoboda discussed issues related to the possibility that physicians being treated for chronic pain may be impaired for some time as the treatment is initiated. There are no studies specifically on possible impairment of physicians, but several good studies that are based on before-and-after motor skill functional assessments of general population groups suggest that there is measurable impairment in the first 2 weeks. These studies suggest that there is no impairment after 6 weeks, so the "gray zone" is the time between 2 and 6 weeks. Dr. Swoboda stated that in his opinion, physicians should not practice during at least the first 2 weeks, and possibly not for the first 6 weeks. He also noted that impairment is greater with the shorter-acting opiates.

Mr. Thayer reported that activity at MTP remains stable. He provided a copy of the Financial and Operation Reports. There were additional questions related to physicians currently being monitored or evaluated.

5. DELIBERATIONS ON PENDING DISCIPLINARY ACTIONS

Dr. La Farge and Dr. Ranka joined the meeting by conference call at the beginning of executive session to discuss licensing issues.

Executive Session: MOTION was made by Dr. Kovnat and seconded by Mr. Ghadimi to go into executive session to discuss matters of licensure. **YES:** Romine, Giudice, Boshier, Kovnat, Ghadimi, Weiner, and Heim. **MOTION CARRIED.** During the discussions in closed session recused members left the room as each case was discussed. 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.

ACTIONS RELATED TO EXECUTIVE SESSION

In Case #2003-014 (**James A. Neidhart, MD, #86-296**), Dr. Kovnat **MOVED** to accept the Hearing Officers report in its entirety with the additional finding of fact that Respondent assumed responsibilities to co-manage the patient's medical care and owed duties to the patient and Respondent breached the duties to the patient as set forth in the conclusions of law, which breaches caused injury to the patient. Dr. La Farge **SECONDED** the motion. **YES:** Kovnat, La Farge, Giudice, Ghadimi, Ranka, and Heim. **RECUSED:** Romine, Boshier and Weiner. **MOTION CARRIED.**

In Case #2003-014, Dr. Kovnat **MOVED** to adopt Conclusions of Law paragraphs 1 through 9, to include: conduct unbecoming a person licensed to practice medicine, gross negligence in failure to inform the patient of the overdose, failure to obtain informed consent to ongoing treatment, and failure to inform the other treating physician of a significant event relating to the treatment of the patient. The motion further stated that the prosecution failed to present sufficient evidence of injudicious prescribing. Dr. La Farge **SECONDED** the motion. **YES:** Kovnat, La Farge, Giudice, Ghadimi, Ranka, and Heim. **RECUSED:** Romine, Boshier and Weiner. **MOTION CARRIED.**

Based on the above findings in Case #2003-014, Dr. Kovnat **MOVED** to suspend Dr. James Neidhart from the practice of medicine for four (4) consecutive months and that this period shall be completed no later than December 31, 2004; Respondent shall complete a medical ethics course approved by the Board; and Respondent shall within thirty days of receipt of the order present to the Board a description of the corrective action to be taken to avoid medication errors and address the physicians' response when medication errors occur. Dr. La Farge **SECONDED** the motion. **YES:** Kovnat, La Farge, Giudice, Ghadimi, Ranka, and Heim. **RECUSED:** Romine, Boshier and Weiner. **MOTION CARRIED.**

In Case #2003-015 (**Jeff Neidhart, MD, #2002-0176**), Dr. Kovnat **MOVED** to accept the Hearing Officers report in its entirety with the additional finding of fact that Respondent, the patient's treating physician, owed duties to the patient and Respondent breached the duties to the patient as set forth in the conclusions of law, which breaches caused injury to the patient. Dr. La Farge **SECONDED** the motion. **YES:** Kovnat, La Farge, Giudice, Ghadimi, Ranka, and Heim. **RECUSED:** Romine, Boshier and Weiner. **MOTION CARRIED.**

In Case #2003-015, Dr. Kovnat **MOVED** the to adopt Conclusions of Law paragraphs 1 through 8, to include: conduct unbecoming a person licensed to practice medicine, gross negligence in failure to inform the patient of the overdose, failure to obtain informed consent to ongoing treatment, and failure to inform the other treating physician of a significant event relating to the treatment of the patient. Dr. La Farge **SECONDED** the motion. **YES:** Kovnat, La Farge, Giudice, Ghadimi, Ranka, and Heim. **RECUSED:** Romine, Boshier and Weiner. **MOTION CARRIED.**

Based on the above findings in Case #2003-015, Dr. Kovnat **MOVED** to suspend Dr. Jeff Neidhart from the practice of medicine for three (3) consecutive months and that this period shall be completed no later than December 31, 2004; Respondent shall complete a medical ethics course approved by the Board; and Respondent shall within thirty days of receipt of the order present to the Board a description of the corrective action to be taken to avoid medication errors and address the physicians' response when medication errors occur. Dr. La Farge **SECONDED** the motion. **YES:** Kovnat, La Farge, Giudice, Ghadimi, Ranka, and Heim. **RECUSED:** Romine, Boshier and Weiner. **MOTION CARRIED.**

On behalf of Complaint Committee A, Dr. Weiner **MOVED** the Board issue a NCA and Summarily Suspend the license of the physician in case #2004-A-079 (**Jonathan Burg, MD, # 92-191**) for violation of a Board Order. No second was required. **YES:** Romine, Giudice, Kovnat, La Farge, Ghadimi and Heim. **RECUSED:** Weiner, and Boshier. **MOTION CARRIED.**

On behalf of Complaint Committee A, Dr. Weiner **MOVED** the Board approve a Standard Stipulation for substance abuse with the Respondent in case #2003-A-094 (**Virgle Herrin, Jr., MD, # 80-44**). No second was required. **YES:** Romine, La Farge, Giudice, Kovnat, Ghadimi and Heim. **RECUSED:** Weiner and Boshier. **MOTION CARRIED.**

On behalf of Complaint Committee B, Dr. Giudice **MOVED** the Board issue a P.A. license to the Respondent in Case #2003-B-009 (**Barry Campbell, PA applicant**), with the stipulation that he take a course in sexual boundaries by the end of the year, at which time he will be given an unrestricted license.

No second was required. **YES:** Romine, La Farge, Giudice, Kovnat, Ghadimi and Heim. **RECUSED:** Giudice. **ABSENT:** Ranka. **MOTION CARRIED.**

In Case #2003-016 (**Kenneth Gross, MD**, Respondent), Dr. La Farge **MOVED** to accept paragraphs 1 – 51 of the Hearing Officers Report in their entirety and to accept paragraph 52 with a period added after the word “patients” and delete the words “if unsupervised.” Mr. Ghadimi **SECONDED** the motion, which **PASSED** with members Kovnat, La Farge, Ghadimi, Boshier, Weiner, Romine and Heim voting in favor. **RECUSED:** Giudice. **ABSENT:** Ranka. **MOTION CARRIED.**

In Case #2003-016, Mr. Heim **MOVED** to adopt Conclusions of Law paragraphs 1 through 8, to include: unprofessional or dishonorable conduct that includes conduct likely to deceive, defraud, or harm the public; conduct unbecoming in a person licensed to practice or detrimental to the best interests of the public; discipline imposed by the State of New York based upon acts similar to acts that would be grounds to refuse a license in New Mexico; and, sexual misconduct that occurs concurrently with the physician-patient relationship. Mr. Ghadimi **SECONDED** the motion, which **PASSED** with members Kovnat, La Farge, Ghadimi, Boshier, Weiner, Romine and Heim voting in favor. **RECUSED:** Giudice. **ABSENT:** Ranka. **MOTION CARRIED.**

Based on the above findings, Ms. Boshier **MOVED** to deny the application of Kenneth Gross, M.D. to practice medicine in New Mexico. Dr. La Farge **SECONDED** the motion, which **PASSED** with members Kovnat, La Farge, Ghadimi, Boshier, Weiner, Romine and Heim voting in favor. **RECUSED:** Giudice. **ABSENT:** Ranka. **MOTION CARRIED.** Dr. Romine appointed Dr. Kovnat to sign the final Order.

Dr. Kovnat **MOVED** the Board accept the request of **Gail Williams, M.D.** to withdraw his application for licensure in New Mexico and dismiss the pending NCA without prejudice. Mr. Ghadimi **SECONDED** the motion. **YES:** Romine, Heim, Giudice, Kovnat, Ghadimi, and La Farge. **RECUSED:** Weiner and Boshier. **ABSENT:** Ranka. **MOTION CARRIED.**

Ms. Boshier **MOVED** the Board accept a Stipulation and Dismissal Without Prejudice with **Griggsby Wright, M.D.**, whereby he states he does not now plan to apply for a license to practice

medicine in New Mexico and waives the statute of limitations regarding the allegations in the NCA if at some time in the future he applies for licensure in New Mexico. Dr. Kovnat **SECONDED** the motion. **YES:** Romine, Heim, Kovnat, Weiner, Boshier, Ghadimi, and La Farge. **RECUSED:** Giudice. **ABSENT:** Ranka. **MOTION CARRIED.**

Dr. La Farge **MOVED** the Board accept the proposed Stipulated Agreement with **Abner Landry, III, M.D.** and dismiss the pending NCA without prejudice. Dr. Weiner **SECONDED** the motion. **YES:** Romine, Giudice, Weiner, Boshier, Ghadimi, and La Farge. **RECUSED:** Heim and Kovnat. **ABSENT:** Ranka. **MOTION CARRIED.**

Mr. Ghadimi **MOVED** the Board accept the request of **Pierre LeBaud, M.D.** to withdraw his application for licensure in New Mexico and dismiss the pending NCA without prejudice. Dr. Kovnat **SECONDED** the motion. **YES:** Heim, Giudice, Kovnat, Ghadimi, Boshier, Weiner, and La Farge. **RECUSED:** Romine. **ABSENT:** Ranka. **MOTION CARRIED.**

Ms. Boshier **MOVED** the Board approve an Order and a letter of formal reprimand to **Charles Goodell, M.D.** and issue an unrestricted license to practice in New Mexico. Dr. Weiner **SECONDED** the motion. **YES:** Romine, Heim, Kovnat, Ghadimi, Boshier, Weiner, and La Farge. **RECUSED:** Giudice. **ABSENT:** Ranka. **MOTION CARRIED.**

6. LICENSING ISSUES

Dr. Elliot Marcus appeared with his attorney, Peter Schoenburg, to discuss a proposed settlement in a NCA that has been pending since 2002. Dr. Kovnat **MOVED** the Board approve a Stipulation and Order with **Elliot S. Marcus, M.D.**, to restrict his practice in New Mexico to providing anesthesiology services at a JCAHO approved hospital. Dr. Weiner **SECONDED** the motion. **YES:** Romine, Heim, Giudice, Kovnat, Weiner, Boshier, Ghadimi, and La Farge. **ABSENT:** Ranka. **MOTION CARRIED.**

Mr. Khalsa presented evidence in Case #2004-005, **Michael Seitzinger, M.D.**, #80-251. The Board issued a Notice of Contemplated Action on April 10, 2004 based on actions against Dr. Seitzinger in Wisconsin including license suspension for substance abuse and mental health impairment. Mr. Khalsa submitted evidence that Dr. Seitzinger received a copy of the NCA. Dr. Romine **MOVED** to revoke the license of **Michael Seitzinger, M.D.**, and that he be allowed to reapply when his Wisconsin license has been restored and he has practiced for at least one-year in compliance with monitoring by a physician health program similar to MTP. Dr. Giudice **SECONDED** the motion. **YES:** Romine, Heim, Giudice, Kovnat, La Farge, and Ghadimi. **RECUSED:** Boshier and Weiner. **ABSENT:** Ranka. **MOTION CARRIED.**

After meeting with Dr. Olsen, Dr. Giudice **MOVED** that **Robert O. Olsen, M.D.**, be granted an unrestricted license to practice in New Mexico. Dr. Weiner **SECONDED** the motion. **YES:** Romine, Heim, Giudice, Kovnat, Ghadimi, and La Farge. **ABSENT:** Ranka. **MOTION CARRIED.**

Dr. Kovnat **MOVED** the Board accept over 15 years of experience in lieu of the 2nd year of postgraduate training and issue **Charles W. Miller, M.D.**, an unrestricted license to practice medicine in New Mexico. Dr. Weiner **SECONDED** the motion. **YES:** Romine, Heim, Giudice, Kovnat, Weiner, Boshier, Ghadimi, and La Farge. **ABSENT:** Ranka. **MOTION CARRIED.**

10. COMPLAINT COMMITTEE REPORTS

Dr. La Farge remained on the phone and Dr. Romine asked the Board to consider Complaint Committee reports.

Executive Session: **MOTION** was made by Ms. Boshier and **SECONDED** by Mr. Ghadimi to go into executive session to discuss matters of licensure. **YES:** Romine, La Farge, Giudice, Kovnat, Ghadimi, 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.

D. Complaint Committee D: On behalf of Complaint Committee D, Mr. Ghadimi **MOVED** that the following complaint cases be closed as there was no violation of the Medical Practice Act or rules: #2003-D-125, 2003-D-142, and 2003-D-180. No second was required. **YES:** Romine, Giudice, Kovnat, Weiner, Boshier and Heim. **RECUSED:** La Farge and Ghadimi. **ABSENT:** Ranka. **MOTION**

CARRIED.

On behalf of Complaint Committee D, Mr. Ghadimi **MOVED** the physician in case #2004-D-056 (**Edward Yavitz, MD**) be issued a NCA to deny his application for licensure in New Mexico based on action taken in Illinois and falsification of a New Mexico application for licensure. No second was required. **YES:** Romine, Giudice, Weiner, Kovnat, Heim, and Boshier. **RECUSED:** La Farge and Ghadimi. **ABSENT:** Ranka. **MOTION CARRIED.**

On behalf of Complaint Committee D, Mr. Ghadimi **MOVED** the physician assistant in case #2004-D-057 (**Marc Beverly, PA**, #2001-PA16) be issued a NCA to revoke his license based on a felony conviction in Utah. No second was required. **YES:** Romine, Giudice, Weiner, Kovnat, Heim, and Boshier. **RECUSED:** La Farge and Ghadimi. **ABSENT:** Ranka. **MOTION CARRIED.**

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-019, 2003-A-073, 2003-A-080, 2003-A-102, 2003-A-129, 2003-A-134, 2003-A-170, 2003-A-173, and 2004-A-005. No second was required. **YES:** Romine, Giudice, Kovnat, and Heim. **RECUSED:** Weiner and Boshier. **ABSENT:** Ghadimi, La Farge and Ranka. **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: 2003-B-103, 2003-B-104, 2003-B-153, 2003-B-160, 2003-B-163, and 2003-B-177. No second was required. **YES:** Romine, Kovnat, Weiner, Boshier, and Heim. **RECUSED:** Giudice. **ABSENT:** Ghadimi, La Farge and Ranka. **MOTION CARRIED.**

THE BOARD RECESSED FOR LUNCH AT 12:25 p.m. and reconvened at 1:43 p.m.

7. REPORTS

A. Chair. Dr. Romine asked for those members who attended the Federation of State Medical Boards Annual Meeting to briefly report on the meeting. Mr. Heim, Mr. Ghadimi, Dr. Kovnat, and Dr. Giudice each discussed various aspects of the meeting and agreed it was very beneficial. Board members suggested a focus on more outreach and discussed ways to make the newsletter more effective. There was consensus that the Board should be more proactive rather than reactive. Relating to information at the conference, staff was requested to bring a proposal for a policy on the evaluation of multiple malpractice awards.

B. Secretary-Treasurer. Dr. La Farge was not present. Ms. Brandle gave a brief overview of the year-to-date expenditures and FY05 Operating Budget. She discussed the Budget Adjustment Request for expenses related to the Board's move to a new location.

C. Executive Director. Ms. Kinney discussed the status of the agency move to a new location, now projected for July, and online renewals. She discussed recent outreach efforts, such as attendance by Ms. Felmley at the NM Health Resources Retreat, and updated the Board on the current status of the annual rosters.

D. Compliance. Ms. Felmley reviewed the Compliance report. Members requested additional follow-up on those individuals not in compliance.

8. NEW BUSINESS

A. Election of Officers. Ms. Boshier **MOVED** to re-elect the current officers by **ACCLAMATION**. Dr. Weiner **SECONDED** the motion, which **PASSED UNANIMOUSLY**. Dr. Romine will continue to serve as Chair, Dr. Kovnat will serve as Vice-Chair, and Dr. La Farge as Secretary-Treasurer.

B. Adopt Open Meetings Resolution. Mr. Heim **MOVED** to adopt the Open Meetings Resolution as presented. Dr. Giudice **SECONDED** the motion, which **PASSED UNANIMOUSLY**.

C. Schedule Meeting Dates for 2005. Mr. Heim **MOVED** to adopt the Meeting schedule for 2005 as presented (February 17-18, May 19-20, August 18-19, and November 10-11). Dr. Weiner **SECONDED** the motion, which **PASSED UNANIMOUSLY**.

D. Policy on Lab Results. Various members of the Board expressed concern about the

article in the Medical Society Journal about the reporting of lab results to patients. We need to be careful that the Board has discussed and approved an issue before it is published as “from the Board.” The Code of Medical Ethics position on this issue was reviewed and the Board determined it reflects their position. Ms. Felmley was requested to include this information in the next NMMB newsletter. Ms. Kinney noted that the NMMS has indicated they will be more careful in the future.

E. Policy on Pain Management for Physicians. Dr. Romine appointed a committee of Dr. Kovnat, Dr. La Farge and Dr. Weiner to develop a draft policy on this issue for consideration at the next meeting.

F. Correspondence. The Board, without comment or discussion, reviewed the following documents:

1. CRNA Fellowship in Interventional Pain Management
2. FSMB Memo
3. Letter from ASA and AANA regarding Propofol Administration
4. FSMB regarding Scopes of Practice

9. INFORMAL INTERVIEWS

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, Kovnat, Weiner, Boshier, Ghadimi and Heim. **ABSENT:** La Farge, Ranka. **MOTION CARRIED.** Laura Allen, MD, Edward McKenzie, MD, Robert Palmer, MD, Virgle Herrin, MD, Johnny Vigil, MD, Julie DiCianno, MD, Barry Maron, MD, Rolando Tong, MD, and Kathy Jutila, 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.

ACTIONS RELATED TO EXECUTIVE SESSION

Dr. Weiner **MOVED** to grant full licensure to Dr. Jutila with standard stipulations for substance abuse, which include meeting with the Board two times a year. Dr. Giudice **SECONDED** the motion, which **PASSED UNANIMOUSLY.**

Dr. Weiner **MOVED** to grant an unrestricted DEA license to Dr. DiCianno. Ms. Boshier **SECONDED** the motion, which **PASSED UNANIMOUSLY.**

Dr. Weiner **MOVED** to ask Dr. Maron to attend only as requested by the Board. Ms. Boshier **SECONDED** the motion, which **PASSED UNANIMOUSLY.**

Dr. Giudice **MOVED** to change Dr. Palmer’s stipulation to indicate that he will only be monitored for alcohol by MTP. Mr. Heim **SECONDED** the motion, which **PASSED UNANIMOUSLY.**

THE BOARD RECESSED AT 5:53 p.m.

THE BOARD RECONVENED AT 10:00 A.M., MAY 21, 2004 WITH ALL MEMBERS PRESENT EXCEPT DR. LA FARGE and DR. RANKA who participated by teleconference in portions of the meeting.

Dr. Romine reviewed the agenda to identify the items still requiring discussion or decision.

10. COMPLAINT COMMITTEE REPORTS & PENDING DISCIPLINARY ACTIONS

Executive Session: **MOTION** was made by Mr. Ghadimi and **SECONDED** by Dr. Giudice 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.

11. ACTIONS RELATED TO EXECUTIVE SESSIONS

Case #2003-020, Ravi Basker, MD, Dr. Giudice **MOVED** to continue work on the Findings of Fact and Conclusions of Law. Dr. Romine **SECONDED** the motion. **YES:** Romine, Giudice, Ghadimi, La Farge, Weiner and Boshier. **RECUSED:** Kovnat and Heim. **ABSENT:** Ranka. **MOTION CARRIED.** Dr. Guidice, Dr. Weiner and Ms. Boshier were appointed to work as a committee to review the Findings and present any revisions.

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: 2003-C-040, 2003-C-128, 2003-C-131, 2003-C-166, and 2003-C-172. No second was required. **YES:** Romine, Ghadimi, Giudice, Weiner and Boshier. **RECUSED:** Kovnat and Heim. **ABSENT:** Ranka and La Farge. **MOTION CARRIED.**

On behalf of Complaint Committee C, Dr. Kovnat **MOVED** the physician in case #2003-C-188 (**Stephen J. Kitson, MD**) be issued a NCA to deny his application for licensure based on action in Utah and Colorado and falsification of a NM application for licensure. No second was required. **YES:** Romine, Ghadimi, Giudice, Weiner and Boshier. **RECUSED:** Kovnat and Heim. **ABSENT:** Ranka and La Farge. **MOTION CARRIED.**

Complaint Committee E. On behalf of Complaint Committee E, Dr. Romine **MOVED** to issue a NCA in case #2003-E-079 (**Majid Syed, MD, #90-307**) for unprofessional conduct. No second was required. **YES:** Ghadimi, Giudice, Kovnat, Weiner, Boshier and Heim. **RECUSED:** Romine. **ABSENT:** Ranka and La Farge. **MOTION CARRIED.**

Dr. Romine appointed Dr. La Farge to be the hearing officer for Dr. Patel on June 4th, or in the event that he is unavailable, Ms. Kellahin; Dr. Giudice as hearing officer for Dr. Burg when he responds to the NCA, and Dr. La Farge to be hearing officer for Dr. Romero in June.

12. INTRODUCE LFC ANALYST RENADA PEERY. Ms. Peery gave a short background of her experience and discussed the importance of open communication during the budget process. She is aware of the pending move to leased space and the associated costs. Ms. Kinney briefly summarized the status of the Board's cash balance and how we have lowered fees to get the balance down.

7. REPORTS, cont.

E. A.A.G. Report. Ms. Thalley reported on the agreement reached in the unlicensed practice case of David Trudeau, who has agreed to cease and desist.

THE BOARD RECESSED AT 11:30 FOR LUNCH AND RE-CONVENED AT 1:30 IN THE STATE CAPITOL, ROOM 311, for a Rule Hearing.

RULE HEARING on 16.10.9 (Fees), 16.10.10 (Reports of Settlements, etc.), and 16.10.15 (P.A. Licensure). The Board also accepted public comment on the proposed rules of the Board of Psychologist Examiners to implement Psychologist Prescribing. A transcript of the hearing and public comment is attached.

The Board reconvened at 2:20 p.m. in Room 311 of the State Capitol.

13. OLD BUSINESS

A. Actions on Rule Hearing.

Ms. Boshier **MOVED** to adopt 16.10.9 with the changes suggested by Ms. Kinney during the hearing. Mr. Heim **SECONDED** the motion, which **PASSED UNANIMOUSLY.**

Ms. Boshier **MOVED** to adopt 16.10.10 as presented. Dr. Giudice **SECONDED** the motion, which **PASSED UNANIMOUSLY.**

Ms. Boshier **MOVED** to adopt 16.10.15 as presented. Mr. Heim **SECONDED** the motion, which **PASSED UNANIMOUSLY.**

B. Board Discussion on Psychologist Prescribing Rules. There was no further discussion of the proposed rules.

14. DECISION ON PENDING DISCIPLINARY ACTIONS

Executive Session: **MOTION** was made by Ms. Boshier and **SECONDED** by Dr. Giudice to go into executive session to discuss matters of licensure. **YES:** Romine, Ghadimi, Giudice, Kovnat, Weiner, Boshier and Heim. **ABSENT:** Ranka 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. Kovnat **MOVED**, on behalf of Complaint Committee C, that the NCA in Case # 2004-008 (John J. Romero, MD, #95-135) be dismissed. No second was required. **YES:** Romine, Ghadimi, Weiner and Boshier. **ABSTAIN:** Giudice. **RECUSED:** Kovnat and Heim. **ABSENT:** Ranka and La Farge. **MOTION CARRIED.**

15. ADJOURN: The meeting adjourned at 2:45 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 20-21, 2004

Licensing Actions, in alpha order:

- Beverly, Marc, PA, #2001-PA16 – approved NCA to revoke Physician Assistant license based on felony conviction in Utah.
- Burg, Jonathan, MD, # 92-191 – approved Summary Suspension and Notice of Contemplated Action for violation of existing stipulated agreement
- Campbell, Barry, PA – approved license with Stipulation that he take a course on sexual boundary issues by 12/31/2004, following completion he will be issued an unrestricted license
- DiCianno, Julie, MD, #90-182 – approved Amended Stipulation to remove all limitations on prescribing of controlled substances.
- Goodell, Charles, MD – approved Order with formal Letter of Reprimand and approved unrestricted license to practice medicine in New Mexico.
- Gross, Kenneth, MD – approved Order denying Dr. Gross’s application to practice medicine in New Mexico based on the findings of unprofessional or dishonorable conduct, conduct unbecoming in a person licensed to practice, sexual misconduct, and disciplinary actions in another state.
- Herrin, Virgle O. Jr., MD, #80-44 – approved standard stipulations for substance abuse.
- Jutila, Charlotte, MD – approved for licensure with standard stipulations for substance abuse.
- Kitson, Stephen J, MD – approved NCA to deny application to practice medicine in New Mexico based on disciplinary action in other states and falsification of an application.
- Landry, Abner III, MD, #83-235 – approved Stipulation Agreement that Dr. Landry will notify the Board 120 days before beginning practice in New Mexico and dismiss the NCA without prejudice.
- LeBaud, Pierre, MD – accepted withdrawal of application to practice medicine in New Mexico and dismissed the pending NCA without prejudice.
- Marcus, Elliot S., MD, #85-238 – approved Stipulated Agreement to restrict practice to providing anesthesiology services at a JCAHO approved hospital.
- Miller, Charles W., MD – accepted experience in lieu of second year of postgraduate training and issued unrestricted license to practice medicine in New Mexico.
- Neidhart, James A., MD, #86-296 – suspended license for four months between June 1 and December 31, 2004; required medical ethics course approved by the Board; and corrective action plan to deal with preventing medical errors and informing patient when errors occur.
- Neidhart, Jeffrey, MD, #2002-0176 – suspended license for three months between June 1 and December 31, 2004; required medical ethics course approved by the Board; and corrective action plan to deal with preventing medical errors and informing patient when errors occur.
- Olsen, Robert O., MD – approved unrestricted license to practice medicine in New Mexico.
- Romero, John J., MD, #95-135 – dismissed NCA and reinstated license to practice medicine in New Mexico.
- Seitzinger, Michael, MD, #80-251 – approved Order revoking license to practice medicine in New Mexico and allow physician to reapply when his Wisconsin license has been restored and he has practiced for one-year under a Physician Health Program.
- Syed, Majid, MD, #90-307 – approved NCA for unprofessional conduct.
- Williams, Gail Roger, MD – accepted withdrawal of application to practice medicine in New Mexico and dismissed the pending NCA without prejudice.
- Wright, Grigsby, MD – approved Stipulation and Dismissal Without Prejudice whereby physician agrees not to apply for licensure in New Mexico pending NCA is dismissed.
- Yavitz, Edward, MD – approved NCA to deny application to practice medicine in New Mexico based on action in another state and falsification of NM application.