

**NEW MEXICO MEDICAL BOARD**  
**Regular Board Meeting**  
**May 1-2, 2014**  
**FINAL MINUTES**

**Members Present:** Steve Weiner, M.D., Chair  
Steven Jenkusky, M.D., Vice Chair  
James Spence, M.D.  
Jennifer Anderson, Esquire, Public Member  
Steven Komadina, M.D.  
Rick Wallace, FACHE, Public Member  
Sam Kankanala, M.D.  
Peter Beaudette, M.D.  
Albert Bourbon, PA-C

**Others Present:** Lynn Hart, Executive Director  
Grant La Farge, M.D., Medical Director  
Sondra Frank, Board Attorney  
Dan Rubin, Administrative Prosecutor  
Amanda Quintana, Licensing Manager  
Debbie Dieterich, Investigations/Compliance Manager  
Gayle Mascarenas, CFO/HR Manager  
Amanda Chavez, Investigator  
Kate Compton, Investigator  
Samantha Breen, Administrative Assistant  
Jolene Casados, Licensing

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

Dr. Weiner called the Regular Board Meeting of the New Mexico Medical Board to order at 8:30 a.m. and a quorum was present.

**2. APPROVAL OF AGENDA**

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

**3. APPROVAL OF MINUTES**

**MOTION** was made by Dr. Weiner to accept and approve the minutes of the April 3, 2014 Interim Board Meeting as presented. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

**EXECUTIVE SESSION: Complaint Committee Reports / Executive Committee Report**

**MOTION** was made by Dr. Weiner 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. Jenkusky. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

**OPEN SESSION**

The Board returned to open session. Dr. Weiner stated for the record that the matters discussed in executive session were limited only to those specified in the motion for closure.

#### 4. ACTIONS RELATED TO EXECUTIVE SESSION

##### Complaint Committee A

**RECOMMENDATION** was made by Dr. Jenkusky to **CLOSE** Case #2013-A-075; #2013-A-116; #2013-A-148, #2013-A-176. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **MOTION CARRIED.**

**Case #2014-A-034 RECOMMENDATION** was made by Dr. Jenkusky to issue a Notice of Contemplated Action to deny licensure based on, but not limited to, licensure action in another state and incompetency to practice medicine. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Dr. Kankanala; Dr. Komadina; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **MOTION CARRIED.**

##### Complaint Committee B

**RECOMMENDATION** was made by Dr. Spence to **CLOSE** Case #2013-B-006; 2013-B-067; 2013-B-081; 2013-B-226 and 2014-B-010. **YES:** Dr. Weiner; Ms. Anderson; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Spence and Dr. Komadina. **MOTION CARRIED.**

**RECOMMENDATION** was made by Dr. Spence to **CLOSE** Case #2013-B-216 with an Advisory Letter regarding self-treating and self-prescribing. **YES:** Dr. Weiner; Ms. Anderson; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Spence and Dr. Komadina. **MOTION CARRIED.**

**Case #2014-B-041 RECOMMENDATION** was made by Dr. Komadina to offer physician a Stipulation of Licensure requiring mandatory participation in the NM Monitored Treatment Program, and issuance of an advisory letter regarding timely reporting. If physician does not accept the stipulation of licensure, a Notice of Contemplated Action will be issue based on, but not limited to, habitual or excessive use of alcohol. **YES:** Dr. Weiner; Ms. Anderson; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Spence and Dr. Komadina **MOTION CARRIED.**

##### Complaint Committee C

**RECOMMENDATION** was made by Dr. Kankanala to **CLOSE** Case #2013-C-083; 2013-C-109; 2013-C-118; 2013-C-119 **YES:** Dr. Weiner; Ms. Anderson; Dr. Komadina; Mr. Wallace; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **MOTION CARRIED.**

##### Complaint Committee D

**RECOMMENDATION** was made by Ms. Anderson to **CLOSE** Case #2013-D-084; 2013-D-140 **YES:** Dr. Weiner; Dr. Spence; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **MOTION CARRIED.**

**RECOMMENDATION** was made by Ms. Anderson to **CLOSE** Case #2013-D-196 with an Advisory Letter to physician regarding the Board's regulation on patient notification upon a physician's departure and to **CLOSE** Case #2013-D-232 with an Advisory Letter regarding treating and prescribing to family members. **YES:** Dr. Weiner; Dr. Spence; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **MOTION CARRIED.**

**Case #2013-D-194 RECOMMENDATION** was made by Ms. Anderson to refer physician to NM Monitored Treatment Program for their referral for an evaluation to determine if any boundary issue exists. The case will remain open pending receipt of report. **YES:** Dr. Weiner; Dr. Spence; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **MOTION CARRIED.**

**Case #2013-D-022 RECOMMENDATION** was made by Ms. Anderson to issue a Notice of Contemplated Action to deny licensure based on, but not limited to, licensure action in another state, misrepresentations on application, conduct unbecoming, and conduct likely to harm. **YES:** Dr. Weiner; Dr. Spence; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **MOTION CARRIED.**

### Complaint Committee E

**RECOMMENDATION** was made by Dr. Weiner to **CLOSE** Case #2013-E-059; 2013-E-062; 2013-E-066. **YES:** Dr. Spence; Ms. Anderson; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner. **MOTION CARRIED.**

**Case #2012-E-011 RECOMMENDATION** was made by Dr. Weiner to **CLOSE** case with a warning/advisory letter informing physician of the Board's concerns with his practice and advising him to complete education in certain courses. **YES:** Dr. Spence; Ms. Anderson; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner. **MOTION CARRIED.**

**Case #2013-E-032 RECOMMENDATION** was made by Dr. Weiner to offer physician the following options: (1) retire his license while under investigation, which is reportable; or (2) undergo an evaluation by the impaired physician committee and place license on inactive status until receipt of report. If physician does not accept either offer, a notice of contemplated action will be issued based on, but not limited to, manifest incapacity to practice, and conduct likely to harm the public. **YES:** Dr. Spence; Ms. Anderson; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner. **MOTION CARRIED.**

**Case#2013-E-003 RECOMMENDATION** was made by Dr. Weiner to order physician to be evaluated by an impaired physician committee. This case will remain open until receipt of report. **YES:** Dr. Spence; Ms. Anderson; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner. **MOTION CARRIED.**

## 5. LICENSING ISSUES, NEW APPLICANTS / REINSTATEMENTS

**EXECUTIVE SESSION: John Van Doren, M.D.**

**MOTION** was made by Dr. Weiner 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. Jenkusky. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

### **OPEN SESSION**

The Board returned to open session. Dr. Weiner stated for the record that the matters discussed in executive session were limited only to those specified in the motion for closure.

### **John Van Doren, M.D. - Decision and Order**

**MOTION** was made by Dr. Weiner to accept the Hearing Officers report and deny physicians application for licensure without prejudice. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky.

### **Jacqueline Henderson, M.D. – Default Hearing**

*Per the Uniform Licensing Act, if a person who has requested a hearing does not appear or fails to request a hearing, the Board or Hearing Officer may hear the evidence of such witnesses as may have appeared, and the Board may proceed to consider the matter and dispose of it on the basis of the evidence before it.*

Dan Rubin, Administrative Prosecutor presented the case to the Board. Ms. Amanda Chavez, Investigator and Ms. Samantha Breen, Administrative Assistant appeared before the Board as witnesses and were sworn in by Sondra Frank, Board Attorney. Mr. Rubin questioned both witnesses and entered into evidence Exhibits 1-8.

Based on witness testimony and the evidence presented, **MOTION** was made by Dr. Weiner to **REVOKE** Dr. Henderson's license to practice medicine. **SECONDED:** Ms. Anderson. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky.

**Kimothi Cain, M.D.** – Request for Exception to the 7 year exam rule

**MOTION** was made by Dr. Weiner to accept Dr. Cain's request for an exception to the 7 year exam rule and **GRANT** a full unrestricted license to practice medicine. **SECONDED:** Dr. Jenkusky. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky.

**6. PRESCRIBING TO FAMILY MEMBERS**

The Board members had an in-depth discussion regarding the AMA Code of Medical Ethics, Opinion 8.19 – Self Treatment or Treatment of Immediate Family Members. The Board has adopted this Code under their regulation and have been dealing with this issue for a number of years. Many referrals from pharmacists are being received by the Board with regard to this issue. The differentiation between continuous treatment and prescribing to self or to a family member vs. treating and prescribing only in emergency situations was discussed.

**7. REPORTS**

**Chair Report**

Dr. Weiner introduced a recent article that had appeared in The Santa Fe New Mexican regarding two Department of Health physicians who have had prior licensure actions taken in other states. Despite the fact that these physicians are now rehabilitated and doing well in their current positions with the state, the board felt that the article was biased, inaccurate and politically motivated.

**Executive Director**

Ms. Hart introduced the Board's new investigator, Kate Compton. Additionally, Ms. Hart will be meeting with the managers to discuss the job description for the position of the Public Information Officer. Ms. Hart further informed the Board that the newly acquired space will shortly be housing the licensing staff.

**EXECUTIVE SESSION: MTP and Non MTP Reports**

**MOTION** was made by Dr. Weiner 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. Jenkusky. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

**Board Monitored Compliance Report [Non MTP]**

Ms. Dieterich reviewed the compliance report and reported on the status of licensees under a current stipulation.

**NM Monitored Treatment Program (MTP)**

John Thayer of the NM Monitored Treatment Program was presented the status of all mandatory MTP participants and answered relevant questions from the Board.

**Informal Interviews**

Michael Bellas, PA; Daniel Brandt, M.D.; Adelfio Fronterotta, M.D.; James Bradley, M.D.; Elaine Bradshaw, M.D.; John Bray-Morris, M.D.; Julie DiCianno, M.D.; Ralph Hanson, M.D.; Richard Lieberman, M.D.; Richard Smith, M.D.; Jennifer Tso, PA; Michael Lente, PA; Steven Petrakis, M.D.; David Durham, M.D.; Nancy Sachsel, M.D.; Howard Siegel, M.D.; Juan Rossini, M.D.

**OPEN SESSION**

The Board returned to open session. Dr. Weiner stated for the record that the matters discussed in executive session were limited only to those specified in the motion for closure.

**8. Compliance – Actions Related to Executive Session**

**Adelfio Fronterotta, M.D. – Request for Release from Board Stipulation**

**MOTION** was made by Dr. Weiner to release Dr. Fronterotta from his Stipulation. **SECONDED:** Dr. Spence. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

**Daniel Brandt, M.D. – Request for Release from Board Stipulation**

**MOTION** was made by Dr. Weiner to release Dr. Brandt from his Stipulation. **SECONDED:** Dr. Jenkusky. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

**David Durham, M.D. – Request for Release from Board Stipulated Order**

**MOTION** was made by Dr. Weiner to table Dr. Durham's request. **SECONDED:** Dr. Jenkusky. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Mr. Wallace. **MOTION CARRIED.**

**Elaine Bradshaw, M.D. – Request for Amendment to Board Stipulation**

**MOTION** was made by Dr. Weiner to amend Dr. Bradshaw's Board Stipulation to allow her to return to medical practice. **SECONDED:** Ms. Anderson. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Mr. Bourbon **MOTION CARRIED.**

**Michael Lente, PA– Request for Release from Board Stipulated Order**

**MOTION** was made by Dr. Weiner to release Mr. Lente from his Board Stipulated Order. **SECONDED:** Mr. Bourbon. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

**9. FSMB MEETING**

Mr. Bourbon reported to the Board about his recent attendance at the annual FSMB Meeting and gave the board an overview of the topics discussed at the meeting, which had included lengthy discussion on medical marijuana and interstate licensing compacts.

**10. ELECTION OF OFFICERS**

**Board Chair -** Dr. Jenkusky **NOMINATED** Dr. Weiner as Chair. **SECONDED:** Dr. Spence. **YES:** Dr. Spence; Ms. Anderson; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner **MOTION CARRIED.**

**Vice Chair –** Mr. Bourbon **NOMINATED** Dr. Jenkusky as Vice Chair. **SECONDED:** Mr. Wallace. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Dr. Jenkusky. **MOTION CARRIED.**

**Secretary –** Dr. Jenkusky **NOMINATED** Mr. Bourbon as Secretary. **SECONDED:** Dr. Komadina. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Mr. Bourbon. **MOTION CARRIED.**

**ADJOURN**

Dr. Weiner adjourned the first day [May 1, 2014] of the May Regular Board Meeting at 4:40 p.m.

**Friday, May 2, 2014**

Dr. Weiner reconvened the Regular Meeting and called the meeting to order at 9:00 a.m. on Friday, May 2, 2014; a quorum was present.

**11. REPORTS**

**Medical Director**

Dr. La Farge summarized some of the key points of the two-day Annual Meeting of the Federation of State Medical Boards (FSMB) in Denver, Colorado. Each item was followed by comment and discussion from the Board Members and Staff:

- Dr. Chaudhry, CEO of the FSMB made a point in the opening presentation that was repeated subsequently by many speakers, especially with regard to liability in telehealth: "The practice of Medicine takes place where the Patient is located, irrespective of the Practitioner's location";
- Changes in the USMLE Step 3 examination are currently in their final stage, and will be in effect in November 2014. The changes are focused on new formats and clinical scenarios that require the examinee to interpret and to apply clinical information in diagnosis and treatment;

- There was much discussion about the coming short-fall in numbers of physicians and other practitioners engendered by the Affordable Health Care Act. The solution will be redirected toward increased enrollment in training, and increased accreditation of training programs;
- New concepts of Patient-Centered Care Teams include: multi-State participation in the team, as needed; greater roles for non-physician practitioners, especially medical assistants; development of greater standardization and uniformity in coverage of illnesses and procedures; State Medical Boards will continue to have critical roles in Licensure, Discipline, and Maintenance of Competence"; and, there will increased and more uniform accountability for all practitioners;
- The FSMB is planning a formal (and difficult) study of the actively licensed U.S. Physician population with respect to the hours of medical and surgical practice actually performed over time. The concern is the licensed but inactive Physician;
- Increasing future emphasis on 'CPD' (continuous personal development) internationally, based on the six Core Competencies: patient care; medical knowledge; practice-based learning; communication skills; system-based practice; and professionalism;
- Intensive investigation of the future International Accreditation and Certification of the 2,372 international medical schools; the goals are 'acceptable' and 'comparable' medical education and training, thereby providing a pool of 'comparable' professionals world-wide;
- The ABMS (American Boards of Medical Specialties) seek to develop an ABMS-I: international and Board comparable certification;
- 'Physician Burnout' was classified by Dr. Oreskovich as 'preventable and treatable'. There will be increased focus on the 40% of all physicians who undergo some level of 'burnout';
- Considerable discussion of the elements of telemedicine, interstate licensure compacts, and increased portability, though there was no discussion of the issue of obtaining credentials and privileges in multiple clinics and hospitals in a given State for performing telehealth activities;
- Increased emphasis on developing a "Just Culture in Health Care", involving the important concepts of 'Disclosure and Apology' instead of the current 'Deny and Defend'. Fear of retribution currently impedes 'Analysis, Learning, and 'Improvement', as well–documented by Dr. Lucian Leape over the past few decades, in his characterization of the elements of personal and systemic errors; and,
- A vigorous discussion of Colorado's new Marijuana laws. The statement was made by Dr. Gundersen that "A physician 'using' marijuana is unsafe to practice". Colorado is recognizing that 'long-term users' make increasingly significant errors and may be unaware of those errors.

#### **Board Attorney**

Sondra Frank, Board Attorney, informed the Board that there is a number of disciplinary cases that will be coming up and that several Board members will serve as hearing officers. She reminded Board members of their roles as hearing officers and educated them about ex parte communications and the effect that they may have. Many scenarios were given regarding ex parte communication and Ms. Frank answered all of the questions asked by the Board. She requested that if the issue of ex parte communication should arise at any time, that Ms. Hart be informed so that a decision can be held as to whether or not that member could be impartial in hearing the case.

Ms. Frank also informed the Board that the NMMB Statutes and Rules are still in the process of being revised.

#### **Licensing**

No report.

#### **Financial / HR Manager**

Ms. Mascarenas reported to the Board the status of the FY14 Budget and Revenue Status ending March 31, 2014. She stated that the agency has expended \$1,124,900 or 64% of its FY14 operating budget of \$1,734,800.00; revenues collected through March 31, 2014 is \$526,100 or 30.3%. She further informed the Board that the expenditures for hearing and litigation are at \$17,900 and that \$30,200 has been committed or encumbered for a total of 11 cases. Two Budget Adjustment Requests were processed in April for hearing and litigation and to reallocate operating budget from contracts to other costs for office furnishings.

The FY15 Operating Budget beginning on July 1, 2014 is \$1,886.0 million, an increase of 8.7% over the FY14 Operating Budget. The operating budget includes a 3% increase for classified employees and additional operating costs to fund the administrative hearing and litigation process.

### **Investigations**

Ms. Dieterich reintroduced Kate Compton, Investigator, and gave a status on investigation cases.

### **Administrative Prosecutor**

**Prosecution Status Report** – Mr. Rubin reported on the status of pending administrative prosecution cases. Mr. Rubin also gave a status report on pending litigation involving the Board as follows;

**George Schwartz, M.D.** – No change in status.

**Nicholas Nardacci, M.D.** – Mr. Livingston has filed a motion to consolidate the case against him filed by Dr. Nardacci. With Dr. Nardacci's appeal of the Board's disciplinary decision against him.

**Pawan Jain, M.D.** – Awaiting to hear decision on appeal. Dr. Jain has been indicted in Federal Court on 111 counts of Medicaid fraud, including fraud resulting in death.

**Richard Rubin, PA** – No change in status.

## **12. NEW BUSINESS**

### **Board Member Responsibilities in the Disciplinary Process**

Ms. Frank led a discussion regarding the disciplinary process. She informed Board members that they are mandated by law to protect the public and this must always be their primary concern. They must ensure that any action that they take protects the public. She stated that the law also states that as Board members/hearing officers they have a specific burden because they must afford the licensee and prosecutor due process. She further stated that in order to be fair they must be impartial. The law states that in order to be impartial three things must be considered; personal, financial or other interest. If a Board member cannot be impartial, they must recuse themselves from the disciplinary process. Several questions and scenarios were given during the discussion and Ms. Frank was able to answer their questions and provide insight to the scenarios given. Ms. Frank stated that every board member is responsible for informing staff if there is a personal relationship with any licensee who is going through the disciplinary process.

Ms. Frank also pointed out that Board members must read everything in the case files and come prepared. Some of the cases are difficult and Board members must be prepared in order to give due process. She stated that she is happy with the level of professionalism that Board members have shown. Ms. Hart reminded Board members that they are representing the public. Dr. Kankanala asked if there are criteria for assigning Board members to cases. Ms. Hart stated that Board staff looks at the expertise of each Board member when assigning the case. Ms. Frank stated that what she is looking for is consistency in decision-making and throughout the disciplinary process.

Mr. Rubin explained the concerns with *ex parte* communications when presenting a settlement before the Board, and how settlements are first vetted with the complaint committee and the executive director before presentation to the Board.

### **Alternative Options – Third Party Monitors**

Ms. Hart and Ms. Dieterich gave a presentation to the Board regarding an alternative option the Board may want to consider for licensees they find not to be following the Board's rules on prescribing controlled substances for chronic pain. The use of a third party monitor for a licensee's practice was presented as a possible solution for the continued problems the Board is facing with licensees who are not following the Board's rules. This alternative solution was proposed for the purpose of keeping certain licensees in practice but at the same time ensuring that the licensee is practicing pursuant to Board rules. A third party neutral entity, called Affiliated Monitors, was introduced. This entity vets professional, board certified physicians to monitor a licensee's complete practice to ensure compliance and then report their findings to the Board on a quarterly basis. This entity is used by other state licensing boards and the cost would be paid by the licensee. These third party monitors are very experienced, perform on site or off site practice monitoring and perform chart reviews. They also review communication issues between physician and patient and ensure that the states laws and regulations are followed. Ms. Anderson stated that she would like to put this idea out to the medical community. Ms. Hart stated that nothing precludes a physician from taking a proactive approach, such

as that with MTP. Ms. Hart informed the Board that this is a concept that Board staff would like to try and requested approval.

**MOTION** was made by Mr. Wallace to engage with Affiliated Monitors for third party monitoring. **SECONDED:** Dr. Komadina **YES:** Dr. Weiner; Ms. Anderson; Dr. Spence; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Dr. Beaudette and Dr. Jenkusky. **ABSENT:** Mr. Bourbon. **MOTION CARRIED.**

**Governors Counsel on Drug Overdose Deaths and the Next Steps for the Medical Board**

Dr. Jenkusky reported that opiate misuse is a big problem in NM as we are ranked number two and a lot of attention has been placed on this issue. He stated that the counsel was formed to look at the issue and that there are several other representatives on the committee, which meets every other month. The purpose is to provide recommendations to the Governor's office and potentially to the legislature. Dr. Jenkusky noted that the New Mexico Medical Board was the first to do what it was supposed to do in regard to identifying issues, amending and implementing rules and adding CME requirements. He stated that of the 9,000 licensees, 2800 have completed the CME requirement, but pointed out that not all licensees hold a NM controlled substance registration, and therefore, are exempt. He provided the Board with a graph from the Pharmacy Board that shows that the number of prescriptions for opiates has decreased, along with the number of overdose deaths.

**Annual Adoption of the Open Meetings Resolution**

**MOTION** was made by Dr. Komadina to adopt the Open Meetings Act Resolution as presented. **SECONDED:** Dr. Weiner. **YES:** Dr. Weiner; Ms. Anderson; Dr. Spence; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Dr. Beaudette and Dr. Jenkusky. **ABSENT:** Mr. Bourbon. **MOTION CARRIED.**

**Proposed Scheduled Board Meeting Dates for 2015**

Ms. Hart requested that Board Members review their schedules and inform staff if they are available for meetings on the following dates:

**Quarterly Meetings:** February 19-20, 2015, May 14-15, 2015, August 6-7, 2015 and November 5-6, 2015.

**Interim Meetings:** January 8, 2015, April 2, 2015, June 25, 2015 and September 17, 2015.

**Election of Officers**

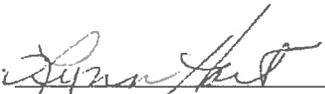
**MOTION** was made by Dr. Spence to ratify the Election of Officers. **SECONDED:** Ms. Anderson. **YES:** Dr. Weiner; Ms. Anderson; Dr. Spence; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Dr. Beaudette and Dr. Jenkusky. **ABSENT:** Mr. Bourbon. **MOTION CARRIED.**

**David Durham, M.D. – Release from Board Stipulated Order (Tabled from May 1, 2014)**

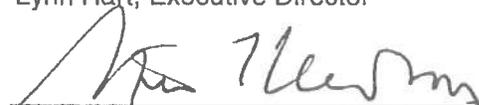
**MOTION** was made by Dr. Jenkusky to release Dr. Durham from Board Stipulated Order. **SECONDED:** Dr. Beaudette **YES:** Dr. Spence; Dr. Komadina; Dr. Beaudette and Dr. Jenkusky. **NO:** Dr. Weiner; Ms. Anderson and Dr. Kankanala. **RECUSED:** Mr. Wallace. **ABSENT:** Mr. Bourbon. **MOTION CARRIED.**

**13. ADJOURN**

There being no further business before the Board, Dr. Weiner adjourned the meeting at 12:00 p.m.

SUBMITTED BY:   
Lynn Hart, Executive Director

DATE: 06/26/14

APPROVED BY:   
Steve Weiner, M.D., Chair

DATE: 06/26/2014

APPROVED BY:   
Steven Jenkusky, M.D., Vice Chair

DATE: 6/26/14