

NEW MEXICO MEDICAL BOARD
Interim Meeting
January 12, 2006

MINUTES

Members Present:

Paul Kovnat, M.D., Chairman
Steve Weiner, M.D., Secretary-Treasurer
Alfredo Vigil, M.D.
Reza Ghadimi, P.A.
Vivian Giudice, M.D. – by teleconference
Allan Haynes, Jr., M.D. - by teleconference
Richard Heim, Public Member – by teleconference

Members Absent:

Prakash M. Ranka, M.D., Vice Chair
Becky Cochran, Public Member

Also Present:

Barbara Mohler, Acting Executive Director
Jenny Felmley, P.I.O.
Lynn Tipton, Administrative Assistant
Grant La Farge, M.D., Medical Director
G.T.S. Khalsa, Board Prosecutor
Corliss Thalley, A.A.G.

The Interim meeting of the New Mexico Medical Board convened at 4:08 p.m., Thursday, January 12, 2006, in the Conference Room, 2055 S. Pacheco, Building 400, Santa Fe, New Mexico, **Paul Kovnat, M.D.** presiding. Dr. Kovnat called the roll and a quorum was declared with members Kovnat, Weiner, Vigil, Ghadimi, and Haynes present. Mr. Heim and Dr. Giudice joined the meeting at 4:15 p.m.

1. APPROVE AGENDA

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

2. APPROVE MINUTES

Dr. Haynes **MOVED** to approve the minutes of the November 10-11, 2005 Board meeting as presented. Dr. Weiner **SECONDED** the motion. **YES:** Kovnat, Weiner, Vigil, Haynes and Ghadimi. **ABSENT:** Ranka, Cochran, Giudice and Heim. **MOTION CARRIED.**

Dr. Haynes **MOVED** to approve the minutes of the December 2, 2005 Board meeting as presented. Dr. Weiner **SECONDED** the motion. **YES:** Kovnat, Weiner, Vigil, Haynes, Heim and Ghadimi. **ABSENT:** Ranka, Cochran and Giudice. **MOTION CARRIED.**

Dr. La Farge requested approval from the board to represent the Board at a preliminary meeting with the Pharmacist Clinician Committee of the pharmacy board meeting on Tuesday, January 17th to review and possibly update both boards' rules governing pharmacist clinicians and physician supervision. Dr. Vigil and Mr. Ghadimi will be working with him once the process has been set up. He also has requested assistance from Barbara Mohler and Julie Martinez from the board office to participate and to help review any updates the pharmacy board is suggesting. A report will be brought back to the board at their

February meeting.

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

3. DECISION AND ORDER

In Case #2005-021, (**Gregory Huss, M.D.**), Dr. Haynes **MOVED** to accept the Hearing Officer's recommended Findings of Facts number 1 thru 35 in their entirety. Mr. Heim **SECONDED** the motion. **YES:** Kovnat, Weiner, Ghadimi, Haynes, Heim and Giudice. **ABSENT:** Ranka and Cochran. **RECUSED:** Vigil. **MOTION CARRIED.**

Dr. Haynes **MOVED** to accept the following Conclusions of Law:

1. The Board has jurisdiction over the Respondent and the subject matter.
2. The Board has complied with all notice and hearing requirements of the Uniform Licensing Act and has afforded Respondent all due process rights required by law. The Decision is timely rendered.
3. Pursuant to Pursuant to §61-6-15 NMSA 1978, the Board has authority to deny a license upon satisfactory proof that Respondent has been guilty of unprofessional or dishonorable conduct based upon a violation of one or more of the enumerated violations, as alleged in the Notice of Contemplated Action.
4. Pursuant to §61-6-15(D)(14) NMSA 1978, the Board may take disciplinary action against Respondent for discipline imposed by another state based upon acts that would be grounds for disciplinary action in New Mexico.
5. The Board concludes that there is sufficient, conclusive evidence in the record to prove by preponderance of the evidence that Respondent's license to practice medicine in Illinois was revoked based on acts by Respondent (habitual abuse of drugs) that would be ground for disciplinary action in New Mexico, §61-6-15(D)(7), habitual or excessive use of intoxicants or drugs, as alleged in ¶ 2(A) of the NCA.
6. The Board concludes that there is sufficient evidence in the record to prove by preponderance of the evidence that Respondent made misrepresentations in his application and supplemental letter, as alleged in ¶ 2(B) of the NCA. Misrepresentation in applying for a license is a violation of §61-6-15(D)(8), NMSA 1978 and Board Rule 16.10.8.8(H) NMAC.
7. The Board has sufficient evidence in the record to deny Respondent's application for license to practice medicine.

Mr. Heim **SECONDED** the motion. **YES:** Kovnat, Weiner, Haynes, Giudice, Heim and Ghadimi. **ABSENT:** Ranka and Cochran. **RECUSED:** Ranka and Vigil. **MOTION CARRIED.**

Dr Kovnat **MOVED** to deny Gregory Huss, MD's application for licensure. Dr Haynes **SECONDED** the motion. Kovnat, Weiner, Haynes, Giudice, Heim and Ghadimi. **ABSENT:** Ranka and Cochran. **RECUSED:** Vigil. **MOTION CARRIED.**

4. DECISION AND ORDER

In Case #2005-022, (**Alan Goldberg, M.D.**), Dr. Kovnat **MOVED** to deny reopening the case since no new evidence was presented and Respondent was able to present evidence at the hearing. Dr. Haynes **SECONDED** the motion. **YES:** Kovnat, Haynes, Vigil, Giudice, Heim and Ghadimi. **ABSENT:** Ranka and Cochran. **RECUSED:** Weiner. **MOTION CARRIED.**

Dr. Haynes **MOVED** to accept the Hearing Officer's recommended Findings of Facts number 1 thru 17 in their entirety. Dr. Kovnat **SECONDED** the motion. **YES:** Kovnat, Haynes, Vigil, Giudice, Heim and

Ghadimi. **ABSENT:** Ranka and Cochran. **RECUSED:** Cochran and Weiner. **MOTION CARRIED.**

Dr. Kovnat **MOVED** to accept the following Conclusions of Law:

1. The Board has jurisdiction over the Respondent and the subject matter.
2. The Board has complied with all notice and hearing requirements of the Uniform Licensing Act and has afforded Respondent all due process rights required by law. This Decision and Order is timely rendered.
3. Pursuant to §61-6-15 NMSA 1978, the Board has authority to deny a license upon satisfactory proof that Respondent has been guilty of unprofessional or dishonorable conduct based upon a violation of one or more of the enumerated violations, as alleged in the Notice of Contemplated Action.
4. Pursuant to § 61-6-15(D)(14) NMSA 1978, the Board may take disciplinary action against Respondent for discipline imposed by another state based upon acts that would be grounds for disciplinary action in New Mexico.
5. The Board concludes that there is sufficient, conclusive evidence in the record to prove by preponderance of the evidence that Respondent's license to practice medicine in New York was revoked based upon acts by Respondent (sexual relationship [intercourse] with a current patient) that would be ground for disciplinary action in New Mexico, §61-6-15(D)(32) and Board Rule 16.10.8.8(B), as alleged in ¶ 2(A) of the NCA.
6. The Board concludes that there is sufficient evidence in the record to prove by preponderance of the evidence that Respondent was dishonest in that Respondent lied under oath during the New York Medical Board disciplinary hearing. Such conduct constitutes a violation of Board Rule 16.10.8.8(H) NMAC, dishonesty, as alleged in ¶ 2(B) of the NCA.
7. The Board has sufficient evidence in the record to deny Respondent's application for license to practice medicine.

Dr. Haynes **SECONDED** the motion. **YES:** Kovnat, Haynes, Vigil, Giudice, Heim and Ghadimi. **ABSENT:** Ranka and Cochran. **RECUSED:** Cochran and Weiner. **MOTION CARRIED.**

Dr Kovnat **MOVED** to deny Alan Goldberg, MD's application for licensure. Dr Haynes **SECONDED** the motion. Kovnat, Vigil, Haynes, Giudice, Heim and Ghadimi. **ABSENT:** Ranka and Cochran. **RECUSED:** Weiner. **MOTION CARRIED.**

5. UPDATE ON PLEADINGS AND PENDING MATTERS.

(Case No. 2005-015, George Schwartz, M.D.)

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

6. COMPLAINT COMMITTEE REPORT

On behalf of Complaint Committee E, Dr. Kovnat **MOVED** that complaint case 2005-E-140, (**Charles Buckmaster, MD**) be denied a license to practice as applicant is ineligible for licensure based on failure to meet minimum required qualifications. If a Notice of Contemplated Action needs to be issued, Dr. Kovnat is authorized by the Board to issue one. Dr. Haynes **SECONDED.** **YES:** Weiner, Vigil, Giudice, Haynes, Ghadimi and Heim. **ABSENT:** Cochran and Ranka. **RECUSED:** Kovnat. **MOTION CARRIED.**

7. LICENSING

A. Robert Sclabassi, MD - Dr. Kovnat **MOVED** the Board accept **Robert Sclabassi, M.D.'s** extensive experience in lieu of two years post graduate training and grant him a Telemedicine License. Dr. Haynes **SECONDED.** **YES:** Kovnat, Haynes, Giudice, Weiner, Vigil, Heim and Ghadimi. **ABSENT:**

Ranka and Cochran. **MOTION CARRIED.**

B. John Barsotti, MD - Dr. Haynes **MOVED** the Board grant a resident license to John Barsotti, MD while he is in a mini sabbatical at the UNM Radiology Department. Mr. Ghadimi **SECONDED**. **YES:** Kovnat, Haynes, Giudice, Weiner, Vigil, Heim and Ghadimi. **ABSENT:** Ranka and Cochran. **MOTION CARRIED.**

C. Laura Allen, MD - NM Monitor Treatment Program sent the board an end of the year report on Dr. Allen, which had been requested at its December 2, 2005 Special Board Meeting. At this time, Dr. Allen is in compliance and no action was necessary.

8. STATUS OF EXEMPT STAFF

Executive Session: **MOTION** was made by Dr. Haynes and **SECONDED** by Dr. Kovnat to go into executive session to discuss matters of exempt staff. **YES:** Kovnat, Haynes, Weiner, Giudice, Vigil, Heim, and Ghadimi. **ABSENT:** Ranka and Cochran. **MOTION CARRIED.** The Board returned to open session. Dr. Kovnat stated for the record that the matters discussed in executive session were limited to only those specified in the motion for closure.

9. APPOINT HEARING OFFICERS FOR UPCOMING HEARINGS

Dr. Vigil moved that hearing officers be assigned on a rotating basis for the upcoming hearings to be scheduled. Motion passed unanimously.

10. FSMB ATTENDEES

Dr. Kovnat discussed the budget available for Board members to attend the Federation Meeting in Boston, April 20-22, 2006. The allocated budget can pay for 3 attendees in full and registration fees for all members who wish to attend, and there will be enough left in the budget to help defer some of the other members' incurred costs if they choose to attend.

11. ADJOURN There being no further business, the meeting adjourned at 5:30 p.m.

SUBMITTED: _____ **Date:** _____
Barbara Mohler, Acting Executive Director

APPROVED: _____ **Date:** _____
Steve Weiner, M.D., Secretary

APPROVED: _____ **Date:** _____
Paul Kovnat, M.D., Chair

Meeting Actions
January 12, 2006

John Barsotti, MD - grant a resident license while he is in a mini sabbatical at the UNM Radiology Department.

Charles Buckmaster, MD – deny application for licensure because applicant is ineligible for licensure based on failure to meet minimum required qualifications.

Alan Goldberg, MD – deny application for licensure based on revocation of New York license to practice medicine, and dishonesty under oath during the New York Medical Board disciplinary hearing.

Gregory Huss, M.D. – deny application for licensure based on revocation of Illinois license to practice