

NEW MEXICO MEDICAL BOARD
Third Quarter Meeting
August 16 – 17, 2007

2055 S. Pacheco, Building 400
Santa Fe, New Mexico

MINUTES

Members Present: Paul Kovnat, M D , Chairman
Steven Weiner, M.D , Vice-Chair
John Lauriello, M D., Secretary / Treasurer
Rebecca Cochran, Public Member
Prakash Ranka, M D (present on 8/16/07 only)
Reza Ghadimi, P.A
Vivian Giudice, M D

Members Absent: Richard Heim, Public Member

Others Present: Lynn Hart, Executive Director
Grant LaFarge, M D , Medical Director
Corliss Thalley, Assistant Attorney General
(present on 8/16/07, left at approximately 12:30 p m)
G T S. Khalsa, Board Prosecutor
J J Walker, Compliance Mgr / PIO
Lynn Tipton, Administrative Assistant
Carol Tyrrell, Investigator
Amanda Quintana, Investigator
(See list of all attendees attached to these minutes)

1. CALL TO ORDER / ROLL CALL:

Dr Kovnat, Board Chairman, called the regular meeting of the New Mexico Medical Board to order at 8:43 a m , and a quorum was determined present

2. APPROVAL OF AGENDA:

MOTION was made by Dr Kovnat to approve the Agenda as presented. **SECONDED** by Dr Lauriello **YES:** Dr Kovnat, Dr. Ranka, Dr Weiner, Ms Cochran, Mr Ghadimi, Dr Giudice, and Dr Lauriello **MOTION CARRIED.**

3. APPROVAL OF MINUTES:

MOTION was made by Dr Kovnat to approve the Minutes from the May 10-11, 2007 meeting **SECONDED** by Dr Giudice **YES:** Dr Kovnat, Dr. Ranka, Dr Weiner, Ms Cochran, Mr Ghadimi, Dr Giudice, and Dr Lauriello **MOTION CARRIED.**

MOTION was made by Dr Kovnat to approve the Minutes from the June 28, 2007 meeting **SECONDED** by Dr Ranka. **YES:** Dr Kovnat, Dr Ranka, Dr Weiner, Ms Cochran, Mr Ghadimi, Dr Giudice, and Dr Lauriello **MOTION CARRIED.**

4. NM MONITORED TREATMENT PROGRAM (MTP) REPORT:

Mr Thayer gave an update on the Program's budget and an overview of the Monitored Treatment Program's Annual Report that was distributed to all board members

EXECUTIVE SESSION:

MOTION was made by Dr Kovnat to go into closed session to discuss matters pertaining to the issuance, suspension, renewal or revocation of a license **SECONDED** by Ms Cochran **YES:** Dr. Kovnat, Dr Ranka, Dr Weiner, Ms Cochran, Mr Ghadimi, Dr Giudice, and Dr Lauriello **MOTION CARRIED.**

Jon Thayer, Dan Collins, M D , and Connie Merrell were present to discuss the status of mandatory MTP participants

Mr Thayer, Dr Collins and Ms. Merrell left the meeting and the Board remained in Executive Session to discuss matters pertaining to the issuance, suspension, renewal or revocation of a license

5. COMPLAINT COMMITTEE REPORTS:

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

6. ACTIONS RELATED TO EXECUTIVE SESSION:

Complaint Committee A:

RECOMMENDATION was made by Dr Weiner to close complaint cases 2006-A-081; 2006-A-161; 2006-A-182; 2007-A-008; 2007-A-017; 2007-A-041; 2007-A-051; 2007-A-055; 2007-A-059; 2007-A-060; 2007-A-077; 2007-A-082; AND 2007-A-085, as there was no evidence of a violation of the Medical Practice Act or rules. No second was required **YES:** Dr Kovnat, Dr Ranka, Dr Lauriello, Dr Giudice, and Mr Ghadimi **ABSTAINED:** Ms Cochran and Dr Weiner

Case No. 2007-A-043. RECOMMENDATION was made by Dr. Weiner to close this case No second was required. **YES:** Dr. Kovnat, Dr Lauriello, Dr. Giudice, and Mr Ghadimi **RECUSED:** Dr Ranka **ABSTAINED:** Ms Cochran and Dr Weiner

Case No. 2006-A-037 (Scott Gilbert, MD). RECOMMENDATION was made by Dr Weiner to issue a Notice of Contemplated Action (NCA) based on action taken in another state. No second was required **YES:** Dr Kovnat, Dr Ranka, Dr Lauriello, Dr Giudice, and Mr Ghadimi **ABSTAINED:** Ms Cochran and Dr Weiner

Case No. 2006-A-104 (Tom Everitt) . RECOMMENDATION was made by Dr Weiner to refer the case to the District Attorney's Office for filing suit against the workmen's compensation administration for an injunction that would stop adjusters from making medical decisions that directly affect patient care without the supervision of licensed New Mexico physicians No second was required **YES:** Dr Kovnat, Dr Ranka, Dr Lauriello, Dr Giudice, and Mr Ghadimi **ABSTAINED:** Ms Cochran and Dr Weiner

Complaint Committee B:

RECOMMENDATION was made by Dr Kovnat to close complaint cases 2006-B-148; 2007-B-020; 2007-B-038; 2007-B-042; 2007-B-046; 2007-B-052; 2007-B-061; 2007-B-065; 2007-B-071; 2007-B-076; 2007-B-081; and 2007-B-091, as there was no evidence of a violation of the Medical Practice Act or rules No second was required **YES:** Dr Weiner, Ms Cochran, Dr Lauriello, Dr Giudice, and Mr Ghadimi **ABSTAINED:** Dr Kovnat and Dr Ranka

Case No. 2007-B-027 (W. Channing Nicholas, MD). RECOMMENDATION was made by Dr Kovnat to issue a Notice of Contemplated Action (NCA) based on action taken in other states with no license issued No second was required **YES:** Dr Weiner, Ms Cochran, Dr Lauriello, Dr Giudice, and Mr Ghadimi **ABSTAINED:** Dr Kovnat and Dr Ranka

Case No. 2007-B-073 (Harold Tate, MD). **RECOMMENDATION** was made by Dr. Kovnat to issue a Notice of Contemplated Action (NCA) if the Respondent does not agree to a stipulated license based on a felony conviction. No second was required. **YES:** Dr. Weiner, Ms. Cochran, Dr. Lauriello, Dr. Giudice, and Mr. Ghadimi. **ABSTAINED:** Dr. Kovnat and Dr. Ranka.

Complaint Committee C:

RECOMMENDATION was made by Dr. Giudice to close complaint cases 2006-C-129; 2006-C-184; 2006-C-190; 2006-C-209; 2007-C-016; 2007-C-028; 2007-C-044; 2007-C-057; 2007-C-062; 2007-C-064; 2007-C-067; 2007-C-070; 2007-C-075; 2007-C-078; 2007-C-083; 2007-C-084; AND 2007-C-088, as there was no evidence of a violation of the Medical Practice Act or rules. No second was required. **YES:** Dr. Weiner, Ms. Cochran, Dr. Lauriello, and Dr. Ghadimi. **ABSTAINED:** Dr. Giudice.

Case No. 2006-C-165 (Stacie Rivers, MD). **RECOMMENDATION** was made by Dr. Giudice to request the applicant reapply with a corrected application; and then, issuance of a stipulated licensed for administrative services only. No second was required. **YES:** Dr. Kovnat, Dr. Ranka, Dr. Weiner, Ms. Cochran, Dr. Lauriello, and Mr. Ghadimi. **ABSTAINED:** Dr. Giudice.

Complaint Committee D:

RECOMMENDATION was made by Dr. Lauriello to close complaint cases 2006-D-052; 2006-D-097; 2006-D-178; 2007-D-021; 2007-D-026; 2007-D-029; 2007-D-034; 2007-D-045; 2007-D-047; 2007-D-058; 2007-D-069; 2007-D-074; 2007-D-080, as there was no evidence of a violation of the Medical Practice Act or rules. No second was required. **YES:** Dr. Weiner, Ms. Cochran, Dr. Kovnat, Dr. Giudice, and Dr. Ranka. **ABSTAINED:** Dr. Lauriello and Mr. Ghadimi.

Case No. 2006-D-154 & 2007-D-053 (Same Respondent). **RECOMMENDATION** was made by Dr. Lauriello to close the cases with the provision that the action is reportable to the National Practitioner's Data Bank since the Respondent voluntarily surrendered his license while under investigation. These cases may be reopened if the physician chooses to renew his license. **YES:** Dr. Kovnat, Dr. Ranka, Dr. Giudice, Ms. Cochran, and Dr. Weiner. **ABSTAINED:** Dr. Weiner and Mr. Ghadimi.

Case No. 2006-D-042 (Jeffrey Pollack, PA). **RECOMMENDATION** was made by Dr. Lauriello to issue a Notice of Contemplated Action (NCA) based on a felony conviction. No second was required. **YES:** Dr. Weiner, Ms. Cochran, Dr. Kovnat, Dr. Giudice, and Dr. Ranka. **ABSTAINED:** Dr. Lauriello and Mr. Ghadimi.

Complaint Committee E:

Case No. 2007-E-056 (Robert Morey). **RECOMMENDATION** was made by Dr. Kovnat to refer the case of practicing medicine without a license to the District Attorney's office for possible criminal prosecution. No second was required. **YES:** Dr. Ranka, Dr. Giudice, Ms. Cochran, Mr. Ghadimi, Dr. Weiner, and Dr. Lauriello. **ABSTAINED:** Dr. Kovnat.

Case No. 2007-E-135 (Alonso Pacheco, MD, Resident). **RECOMMENDATION** was made by Dr. Kovnat to issue a stipulation of the current resident license, refer Respondent to the Monitored Treatment Program and if the Respondent does not accept the stipulation, issue a Notice of Contemplated Action to revoke the license based on excessive drug or alcohol use. No second was required. **YES:** Dr. Ranka, Dr. Giudice, Ms. Cochran, Mr. Ghadimi, Dr. Weiner, and Dr. Lauriello. **ABSTAINED:** Dr. Kovnat.

Case No. 2007-E-136 (Keith McClung, MD, Resident). **RECOMMENDATION** was made by Dr. Kovnat to issue a stipulation of the current resident license, refer Respondent to the Monitored Treatment Program and if the Respondent does not accept the stipulation, issue a Notice of Contemplated Action to revoke the license based on excessive drug or alcohol use. No second was required. **YES:** Dr. Ranka, Dr. Giudice, Ms. Cochran, Mr. Ghadimi, Dr. Weiner, and Dr. Lauriello. **ABSTAINED:** Dr. Kovnat.

B IPC Status

Case No 2007-C-032 (Andrew Maslona, MD). RECOMMENDATION was made by Dr Kovnat to grant the physician's request for inactive status **YES:** Dr Kovnat, Dr Giudice, Ms Cochran, Mr Ghadimi, Dr Weiner, and Dr Lauriello **ABSENT:** Dr Ranka

MOTION was made by Dr. Kovnat to add, "Board Order – Jorge Vargas, M D" to Friday's agenda **SECONDED** by Mr Ghadimi **YES:** Dr Kovnat, Dr Giudice, Ms Cochran, Mr Ghadimi, Dr Weiner, and Dr Lauriello **ABSENT:** Dr Ranka

7. **LICENSING ISSUES, NEW APPLICANTS / REINSTATEMENTS:**

- Possible Settlement of Case 2007-004 James A. Wolter, M.D.

MOTION was made by Dr Kovnat to accept the Amended Notice of Contemplated Action adding a second allegation based on non-cooperation with the Board **SECONDED** by Dr Lauriello. **YES:** Dr Weiner, Ms. Cochran, Dr Lauriello, Dr Giudice, Dr McRoberts and Mr Ghadimi **ABSTAINED:** Dr Kovnat and Dr Ranka **MOTION CARRIED.**

MOTION was made by Dr Kovnat to issue the physician a stipulated order to include a letter of reprimand and fine of \$1,000 to cover expenses incurred during recovery. This Order would be reportable to the National Practitioner's Data Bank **SECONDED** by Dr Lauriello. **YES:** Dr Weiner, Ms Cochran, Dr Lauriello, Dr Giudice, Dr McRoberts and Mr Ghadimi **ABSTAINED:** Dr Kovnat and Dr Ranka **MOTION CARRIED.**

- Board Order – Galen Mark Eversole, M.D.

MOTION was made by Dr Kovnat to remove the physician's stipulation **SECONDED** by Dr Lauriello **YES:** Dr Kovnat, Dr Ranka, Dr Weiner, Ms Cochran, Mr Ghadimi, Dr Giudice, Dr Lauriello and Dr McRoberts **MOTION CARRIED.**

- Board Order – David Raymond Willey, M.D.

MOTION was made by Dr Kovnat to remove the physician's stipulation **SECONDED** by Dr Giudice **YES:** Dr Kovnat, Dr Ranka, Dr Weiner, Ms Cochran, Mr Ghadimi, Dr Giudice, Dr Lauriello and Dr McRoberts **MOTION CARRIED.**

- Consider AACRAO Evaluation – Janikamma Kothalanka, M.D.

MOTION was made by Dr Kovnat to accept the American Association of Collegiate Registrars and Admissions Officers (AACRAO) equivalency evaluation and approve licensure for Dr. Kothalanka **SECONDED** by Dr Weiner **YES:** Dr Kovnat, Ms Cochran, Mr Ghadimi, Dr Giudice, Dr Lauriello, and Dr McRoberts

- Bachir Debba, M.D. – applicant seeking exemption to 7 year rule

MOTION was made by Dr Kovnat to recommend granting the physician a license **SECONDED** by Mr Ghadimi **YES:** Dr Kovnat, Dr Ranka, Dr Giudice, Ms Cochran, Mr Ghadimi, Dr Weiner, Dr Lauriello and Dr McRoberts **MOTION CARRIED.**

- Status Report – MD Renewal Measures, Audit and Resident Physicians

Ms. Hart reported that out of 2,256 physicians eligible to renew, 75% renewed on-line, 461 have not yet renewed, and 213 went inactive The web site is up-to-date Ms. Tipton will send board members the web site link The second late fee is now in effect Staff is currently processing CME audits The Board audits 10% of all renewing licensees between April 1 and July 1 All licensees renewing after July 1, 2007 are required to provide proof of continuing medical education hours The Board questioned whether or not someone that was not on the audit list might still be audited and the

response was yes. Even though a licensee may renew through October 1st, the continuing medical education hours should be taken between July 1, 2006 and July 1, 2007 Licensees may ask for a deferral

Ms Hart advised the Board of the Resident Physician status Currently, there are six licensed residents with incomplete applications. The lacking information is primarily program withdrawals, with one lacking return of the fingerprint card

- PA Supervising Physician Statement of Responsibility Form
A new PA verification form has been created and will list the primary supervising physician, as well as, any alternating supervisors

The Board **RECESSED** the regular meeting at approximately 1:00 p m.

8. RULE HEARING:

Dr. Kovnat, Board Chairman, called the Rule Hearing to order at 1:00 p m

MEMBERS PRESENT: Dr. Kovnat, Dr Ranka, Dr. Giudice, Ms Cochran, Mr Ghadimi, Dr Weiner, Dr Lauriello, and Dr McRoberts **MEMBERS ABSENT:** Mr Heim

OTHERS PRESENT: See list of attendees attached to these Minutes

EXHIBITS: Exhibits number 1 through number 11 were entered into the record

Revisions were proposed on Parts 2,3,4,7,8,9, and 15 of Title 16, Chapter 10, New Mexico Administrative Code

- Rule 16.10.2 NMAC – Physician Licensure Requirements
There were no comments from guests or board members
- Rule 16.10.3 NMAC – Examinations
There were no comments from guests or board members
- Rule 16.10.4 NMAC – Continuing Medical Education
There were no comments from guests or board members
- Rule 16.10.7 NMAC – License Expiration, Renewal, and Reinstatement
There were no comments from guests or board members
- Rule 16.10.8 NMAC – Medical Ethics
There were no comments from guests or board members
- Rule 16.10.9 NMAC – Fees
There were no comments from guests or board members
- Rule 16.10.15 NMAC – Physician Assistants: Licensure & Practice Requirements
Mr Ghadimi commented Section 10 of 16 10 15 NMAC should be revised to read, “Interim and Training Permits” There were no other comments from guests or board members

EXHIBITS: Exhibit number 12, the attendance sheet, was entered into the record.

The Rule Hearing was adjourned at 1:35 p m

The Board **RECONVENED** the regular meeting at 1:35 p m

9. ACTIONS RELATED TO RULE HEARING:

MOTION was made by Dr Weiner to adopt Title 16, Chapter 10, Part 2, Part 3, Part 4, Part 7, Part 8, and Part 9 as presented and Part 15 as amended to add an “and” between Interim and Training Permits, a non-substantive revision for the reasons stated in the Rule Hearing Roll call vote as follows **YES:** Dr Kovnat, Dr Ranka, Dr Giudice, Ms Cochran, Mr Ghadimi, Dr Weiner, Dr Lauriello, and Dr McRoberts **MOTION CARRIED.**

10. REPORTS:

A Chairman

- Dr Kovnat announced that the Governor appointed Dr Robert McRoberts to replace Dr Alfredo Vigil as a professional member of the Board
- The Board adopted the 2008 Calendar for Board Meetings
- The next annual meeting of the FSMB is scheduled to be held in San Antonio, Texas in May 2008
- A brief discussion was held regarding initiating a consistent approach for dealing with DWI convictions Ms Hart was directed to conduct a study through the Federation of State Medical Boards (FSMB) ExecNet to review what procedures other states follow

B Executive Director

In response to a Board directive, Ms Hart provided the Board with results from an ExecNet survey through the Federation of State Medical Boards (FSMB) asking if any states require public service as a condition of license renewal, or accept such service in lieu of CME hours By public service, we mean anything from "pro bono" work to taking calls for the community emergency room The survey indicated no other states require voluntary services be provided by physicians The following comments dealt with physicians providing "pro bono" services, participation in accepting Medicare patients, and taking emergency room calls Ms Hart recommended the NM Medical Society consider surveying members on these questions versus the Board conducting a survey

Ms Hart called on Ms. Mascarenas to provide the current budget status report She reported not all of the Fiscal Year 07 budget was expended; however, the fund balance was utilized to cover overall operating expenses due to an increase in audit costs and ISD services The monitored treatment program and the medical director contracts will go out to bid by December 31, 2007 The contract for a monitored treatment program needs to be in place by July 1, 2008

Ms Hart recommended Dr Kovnat appoint a Compliance Task Force to explore the current compliance process, what's working and what's not, as well as, participate in drafting the monitored treatment program contract Dr Kovnat requested that anyone interested in participating contact him Dr Lauriello agreed to participate on the task force

Ms Hart presented the Board with a Fee Chart indicating the statutory limitations for the various services that have set fees in Part 9 of the Board's rules The Board needs to raise fees to the statutory limit before going to the legislature requesting an increase in the statutory limits Increasing fees will alleviate the need for using a percent of the fund balance to cover operating costs each year Staff will provide the Board with a fee proposal for the September Interim meeting

Ms Hart provided the Board with an invitation to attend the annual meeting of the New Mexico Hospital Association on September 20, 2007

Ms Hart reported she attended the New Mexico Medical Society's Executive Committee meeting on Saturday, August 11, 2007 She gave a presentation on the Board's criminal background check through fingerprinting initiative, as well as, announcing that fingerprint checks will be required during the next three years renewal cycle The NM Medical Society volunteered to assist the Board in spreading the news regarding the fingerprint requirement by way of their web site and newsletter Ms Walker was directed to compile a list of agencies that provide fingerprint resources and the cost

Another item discussed at the NM Medical Society (NMMS) was recruiting NM residents-in-training to remain in NM; currently only 25% stay. The NMMS wants to increase that percentage. They plan to hold a job fair on November 30, 2007. They suggested the NMMB waive the licensing fee from resident to permanent. Senator Steve Komadina was present at the meeting and said he would sponsor a bill to that affect. They also want to know if there are any ways for the NMMB to make the licensure process easier.

The NMMS has concerns about changes to the monitored treatment program. California has announced they were eliminating their diversion program. California has determined the diversion program was not effective and plan to consider a monitored treatment program similar to the one New Mexico uses.

MOTION was made by Dr. Kovnat to go into Executive Session to discuss personnel matters
YES: Dr. Kovnat, Dr. Ranka, Dr. Giudice, Ms. Cochran, Mr. Ghadimi, Dr. Weiner, Dr. Lauriello, and Dr. McRoberts **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.

C Medical Director

Dr. LaFarge announced the completion of a revised opioid prescribing guide. The revised guide should be finalized and sent to all physicians, physician assistants, and anesthesiologist assistants licensed in New Mexico by the end of September 2007. The office staff will mail out the guide with a cover letter from Dr. Kovnat and a copy of the current rules.

D Assistant Attorney General

No report was provided for this meeting.

E Administrative Prosecutor

GTS Khalsa stated there were no issues to report for this meeting.

F Investigation Department

• Reorganize Complaint Committee

Mr. Khalsa discussed the organization of the complaint committees. With the addition of new board members, the Board should reorganize so that new members are matched with experienced members.

G Compliance Department

Ms. Walker provided compliance summaries for the Board's review. Out of 29 participants, 17 are enrolled in MTP, and 12 are monitored by the Board. The Compliance Chart provided to the Board Members is now divided into two categories, MTP participants and participants not enrolled in MTP.

MOTION was made by Dr. Kovnat to go into Executive Session **SECONDED** by Dr. Weiner **YES:** Dr. Kovnat, Dr. Giudice, Dr. McRoberts, Mr. Cochran, Mr. Ghadimi, Dr. Weiner, Dr. Lauriello **ABSENT:** Dr. Ranka **MOTION CARRIED.**

• James Hartenbach, M.D.

Compliance was discussed in Executive Session.

11. INFORMAL INTERVIEWS:

Laura Allen, MD; John Vigil, MD; Kevin Holbrook, MD; Jeffrey Neidhart, MD; Nathan Crowder, PA; James Bradley, MD; Chris Gallagher, MD; Sandy Herrin, MD; Jennifer Tso, PA; and Timothy Busch, PA were interviewed in Executive Session regarding current practices and compliance with the Board.

ACTIONS RELATED TO EXECUTIVE SESSION:

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

MOTION was made by Dr. Kovnat to release Laura Allen, MD from stipulation and issue an unrestricted license **SECONDED** by Dr. Lauriello **YES:** Dr. Kovnat, Dr. Giudice, Ms. Cochran, Mr. Ghadimi, Dr. Weiner, Dr. Lauriello, and Dr. McRoberts **ABSENT:** Dr. Ranka **MOTION CARRIED.**

MOTION was made by Dr. Kovnat to release Jennifer Tso, PA from stipulation and issue an unrestricted license **SECONDED** by Ms. Cochran **YES:** Dr. Kovnat, Dr. Giudice, Ms. Cochran, Mr. Ghadimi, Dr. Weiner, and Dr. Lauriello **ABSTAINED:** Dr. McRoberts **ABSENT:** Dr. Ranka **MOTION CARRIED.**

MOTION was made by Dr. Kovnat to issue a stipulation to summarily suspend the license of Kevin Holbrook, MD. The stipulation may be re-evaluated in three months. **SECONDED** by Ms. Cochran **YES:** Dr. Kovnat, Dr. Giudice, Ms. Cochran, Mr. Ghadimi, Dr. Weiner, Dr. Lauriello, and Dr. McRoberts **ABSENT:** Dr. Ranka **MOTION CARRIED.**

Dr. Kovnat read a letter announcing that Dr. Ranka was resigning from the Board effective at the close of business this day, August 16, 2007

The Board **RECESSED** at 5:30 p m

FRIDAY, August 17, 2007

The Board **RECONVENED** at 9:08 a m on Friday, August 17, 2007, with all members present except Dr. Prakash Ranka and Mr. Richard Heim

12. MEDICAL USE OF CANNABIS ACT – Dr. Steve Jenison, Dept. of Health:

Dr. Steve Jenison, Medical Director, Department of Health, provided the Board an update on Senate Bill 523. The Department of Health (DOH) has created a registry for people that have a prescription and medical diagnosis for use of medical cannabis. As part of the application review, each referring physician is contacted by Dr. Jenison. Since the registry began on July 1, 2007, thirty people have been enrolled. The people enrolled suffer from diagnoses such as cancer, spinal cord transaction with intractable spasticity, multiple sclerosis, HIV or AIDS. Approved applicants get a card in the mail indicating what being enrolled in the program means. The production and distribution portion of the Bill are currently on hold. There will be a public hearing on October 1, 2007 on the permanent rules in the main auditorium of the Runnels Building. The Board invited Dr. Jenison to attend their November meeting for an update.

LICENSING ISSUES, NEW APPLICANTS REINSTATEMENTS -- CONTINUED:

- Board Order – Jorge Vargas, M.D.

MOTION was made by Dr. Kovnat to lift the probation for this physician **SECONDED** by Dr. Giudice **YES:** Dr. Kovnat, Dr. Giudice, Ms. Cochran, Mr. Ghadimi, Dr. Weiner, Dr. Lauriello, and Dr. McRoberts **MOTION CARRIED.**

MOTION was made by Dr. Kovnat to go into Executive Session to discuss complaint numbers 2007-D-013, 2007-C-002, 2007-E-119 **SECONDED** by Dr. Giudice **YES:** Dr. Kovnat, Dr. Giudice, Ms. Cochran, Mr. Ghadimi, Dr. Weiner, Dr. Lauriello, and Dr. McRoberts **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

ACTIONS RELATED TO EXECUTIVE SESSION:

Case No. 2007-C-002. RECOMMENDATION was made by Dr Giudice to close this case No second was required **YES:** Dr Kovnat, Dr Weiner, Ms Cochran, Dr Lauriello, and Mr Ghadimi **ABSTAINED:** Dr Giudice and Dr McRoberts

Case No. 2007-D-013. RECOMMENDATION was made by Dr Lauriello to close this case No second was required **YES:** Dr. Kovnat, Dr Weiner, Ms Cochran, and Dr Giudice **ABSTAINED:** Dr McRoberts, Dr Lauriello and Mr Ghadimi

Case No. 2007-E-119 (Robert Oldman, MD). RECOMMENDATION was made by Dr Kovnat to issue the applicant an unrestricted license. **SECONDED** by Mr Ghadimi **YES:** Dr. McRoberts, Dr Lauriello, and Mr Ghadimi **NO:** Ms Cochran and Dr Weiner **ABSTAINED:** Dr Kovnat **RECUSED:** Dr Giudice

Case No. 2007-B-037. MOTION was made by Dr. Kovnat to close this case No second was required **YES:** Dr Weiner, Mr Ghadimi, Dr Giudice, Ms Cochran and Dr Lauriello **ABSTAINED:** Dr Kovnat and Dr McRoberts **MOTION CARRIED:**

A revote was taken on the following cases due to the case numbers being transposed during the first vote.

Case No. 2006-A-081 and Case No. 2007-A-041. MOTION was made by Dr. Weiner to close these cases No second was required. **YES:** Dr. Kovnat, Mr Ghadimi, Dr Giudice, Dr Lauriello, and Dr McRoberts **ABSTAINED:** Dr Weiner and Ms Cochran **MOTION CARRIED.**

The Board requested written clarification on the issue of when it is appropriate to abstain versus recuse in the voting process from Corliss Thalley, Assistant Attorney General for the November meeting

13. NEW BUSINESS:

A Working with UNM Residency Programs

Ms Hart recommended the Board appoint a couple members to open a dialogue with the UNM residency program directors regarding the importance of residents participation in the Monitored Treatment Program (MTP) Recommended language included, while we understand residents are under the umbrella of departments as trainees, each resident is treated as an individual physician They are responsible, just like any other physician, to all the obligations of MTP. Being under the residency does not protect them or excuse them from any responsibility they would have as a physician The Board also has a responsibility for the safety of the patients that are seen by the residents

B Board Member Code of Conduct and Guidelines for Recusal

Ms Hart brought forth the issue of a Board Member Code of Conduct for discussion as the Governmental Conduct Act requires all state agencies to adopt a Code of Conduct The discussion included whether or not board members have a responsibility or obligation to report to the other members' issues such as arrests, investigations, malpractice, or other conflicts of interest The Board determined staff should research this issue and report back at a future board meeting

14. OLD BUSINESS:

A Discussion of Criminal Background Check Implementation

The Board discussed the implementation plan including creating posters for hospitals to place on bulletin boards, responses to those reluctant to provide fingerprints, and emphasizing the purpose is to provide public safety

B Update on Implementation of Medical Marijuana Law

This issue was discussed during the presentation on medical use of cannabis by Dr Jenison

C Update on Senate Memorial 48

The Board received copies of Senate Memorial 48, legislation proposed by Senator Steve Komadina. The bill resolves that the Regulation and Licensing Department, the Office of Attorney General, and representatives from each of the State boards that license health care providers collaborate on a study that will assess whether current law adequately protects the public's right to access safe and effective traditional, cultural, complementary and alternative health care remedies freely and whether any changes to State law are necessary to protect this right

Dr Kovnat volunteered to partner with GTS Khalsa in representing the NMMB for this collaboration. GTS Khalsa read the Board sections from the Minnesota alternative healthcare regulations and the Board agreed this language was a good starting point. Recommendations are due at the Governor's office by October 2008. GTS Khalsa and Dr Kovnat will provide an update at the November meeting.

D NMMS Resolution

Resolution B-201: New Mexico Medical Board Should Assert Control Over Determining the Scope of Practice of Non-Physician Medical Practitioners in New Mexico. This resolution was adopted unanimously by the Greater Albuquerque Medical Association (GAMA) at their May 11-12, 2007, House of Delegates. The resolution directs the New Mexico Medical Society (NMMS) to collaborate with the New Mexico Medical Board (NMMB) to prepare a report evaluating the extent to which the NMMB has the statutory authority to define the practice of medicine and surgery and those aspects of that practice that may be delegated to practitioners of other allied professional health fields. Discussion on this item was postponed for a future meeting.

E Joint Memorial 71

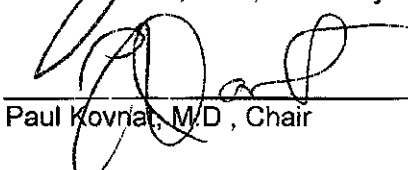
This Memorial requests an interim legislative health and human services committee to establish an unbiased and fair process to review scopes of practice of the health care professions. This Memorial is for informational purposes until such time as the NMMB is contacted for a position statement.

15. **ADJOURN:**

There being no further business, the meeting adjourned at 12:36 p m

SUBMITTED BY:  DATE: 11/15/07
Lynn Hart, Executive Director

APPROVED BY:  DATE: 11-15-07
John Lauriello, M D , Secretary

APPROVED BY:  DATE: 11/15/07
Paul Kovnat, M D , Chair

Meeting Summary

August 16 – 17, 2007

Licensing Actions, in alpha order:

Allen, Laura, MD – release from stipulation and issue an unrestricted license.

Bachir, Debba, MD – grant exemption to 7 year rule and approve licensure.

Everitt, Tom – 2006-A-104 – refer case to the District Attorney's Office for filing suit against the workmen's compensation administration for an injunction that would stop adjusters from making medical decisions that directly affect patient care without the supervision of licensed New Mexico physicians.

Eversole, Galen, MD – remove physician's stipulation

Gilbert, Scott, MD – 2006-A-037 - issue a Notice of Contemplated Action (NCA) based on action taken in another state.

Holbrook, Kevin, MD – offer a stipulation to summarily suspend his license.

Kothalanka, Janikamma, MD – accept the American Association of Collegiate Registrars and Admissions Officers (AACRAO) equivalency evaluation and approve licensure.

McClung, Keith, MD, Resident – 2007-E-136 - offer stipulation with standard substance abuse stipulations and refer to MTP.

Maslona, Andrew, MD – 2007-C-032 - grant physician's request for inactive status.

Morey, Robert – 2007-E-056 - refer case of practicing medicine without a license to the District Attorney's office.

Nicholas, W. Channing, MD – 2007-B-027 – issue a Notice of Contemplated Action (NCA) based on action taken in other states.

Oldman, Robert, MD – 2007-E-119 – issue applicant an unrestricted license.

Pacheco, Alonso, MD, Resident – 2007-E-135 - offer stipulation with standard substance abuse stipulations and refer to MTP.

Pollack, Jeffrey, PA – 2006-D-042 - issue a Notice of Contemplated Action (NCA) based on a felony conviction.

Rivers, Stacie, MD – 2006-C-165 - offer a stipulated license for administrative services only.

Tate, Harold, MD – 2007-B-073 – issued a letter of reprimand based on a felony conviction regarding taxes in California.

Tso, Jennifer PA – release from stipulation and issue an unrestricted license.

Willey, David, MD – remove physician's stipulation.

Wolter, James, MD – 2007-004 – issued a letter of reprimand and fine of \$1,000.

Rule Revisions Adopted:

Rule 16.10.2 NMAC – Physicians: Licensure Requirements

Rule 16.10.3 NMAC – Examinations

Rule 16.10.4 NMAC – Continuing Medical Education

Rule 16.10.7 NMAC – License Expiration, Renewal, and Reinstatement

Rule 16.10.8 NMAC – Medical Ethics

Rule 16.10.9 NMAC – Fees

Rule 16.10.15 NMAC – Physician Assistants: Licensure & Practice Requirements