

**NEW MEXICO MEDICAL BOARD
Fourth Quarter Meeting
February 14-15, 2008**

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

MINUTES

1. CALL TO ORDER / ROLL CALL / INTRODUCTIONS:

Dr. Kovnat, Board Chairman, called the regular meeting of the New Mexico Medical Board to order at 8:35 a.m., and a quorum was determined present.

Members Present: Paul Kovnat, M.D., Chairman
Steven Weiner, M.D., Vice-Chair
John Lauriello, M.D., Secretary / Treasurer
Rebecca Cochran, Public Member
Reza Ghadimi, P.A.
Vivian Giudice, M.D.
Robert McRoberts, M.D.
Frank Crespin, M.D.

Members Absent: Richard Heim, Public Member

Others Present: Lynn Hart, Executive Director
Grant La Farge, M.D., Medical Director
Andrea Buzzard, Assistant Attorney General
G.T.S. Khalsa, Board Prosecutor
J.J. Walker, Compliance Mgr. / PIO
Lynn Tipton, Administrative Assistant

(See list of all attendees attached to these minutes.)

2. APPROVAL OF AGENDA:

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

3. APPROVAL OF MINUTES:

MOTION was made by Dr. Crespin to approve the Minutes from the November 15-16, 2007, meeting. **SECONDED** by Dr. Kovnat. **YES:** Dr. Kovnat, Dr. Weiner, Dr. Lauriello, Ms. Cochran, Mr. Ghadimi, Dr. Giudice, Dr. McRoberts, and Dr. Crespin. **MOTION CARRIED.**

MOTION was made by Dr. Crespin to approve the Minutes from the January 10, 2008, Interim meeting. **SECONDED** by Dr. Kovnat. **YES:** Dr. Kovnat, Dr. Weiner, Dr. Lauriello, Ms. Cochran, Mr. Ghadimi, Dr. McRoberts, and Dr. Crespin. **ABSTAINED:** Dr. Giudice. **MOTION CARRIED.**

MOTION was made by Dr. Weiner to approve the Minutes from the January 28, 2008, Special meeting. **SECONDED** by Ms. Cochran. **YES:** Dr. Weiner, Dr. Lauriello, Ms. Cochran, Dr. Giudice, Dr. McRoberts, and Dr. Crespin. **ABSTAINED:** Dr. Kovnat and Mr. Ghadimi. **MOTION CARRIED.**

4. COMPLAINT COMMITTEE REPORTS:

EXECUTIVE SESSION:

MOTION was made by Dr. Kovnat to go into closed 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 **SECONDED** by Dr. Weiner. **YES:** Dr. Kovnat, Dr. Weiner, Dr. Lauriello, Ms. Cochran, Mr. Ghadimi, Dr. Giudice, Dr. McRoberts, and Dr. Crespin. **MOTION CARRIED.**

5. 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 only to those specified in the motion for closure.

A. Licensees & Applicants

Complaint Committee A:

RECOMMENDATION was made by Dr. Weiner to close complaint cases 2007-A-092; 2007-A-138; 2007-A-145; 2007-A-146; 2007-A-151; 2007-A-154; 2007-A-160; 2007-A-166; 2007-A-171; and 2007-A-176, as there was no evidence of a violation of the Medical Practice Act or rules. **YES:** Dr. Kovnat, Dr. Lauriello, Ms. Cochran, Dr. Giudice, and Dr. McRoberts. **ABSTAINED:** Dr. Weiner and Dr. Crespin. **ABSENT:** Mr. Ghadimi. **RECOMMENDATION PASSED.**

Case No. 2007-A-101 (Pablo Garcia, MD). **RECOMMENDATION** was made by Dr. Weiner to offer the resident physician a stipulated resident license, to be stipulated yearly or until the end of residency, requiring active participation in MTP and other standard substance abuse stipulations. If the physician does not agree to stipulation, the Board will issue a Notice of Contemplated Action based on substance abuse. **YES:** Dr. Kovnat, Dr. Lauriello, Ms. Cochran, Dr. Giudice, and Dr. McRoberts. **ABSTAINED:** Dr. Weiner and Dr. Crespin. **ABSENT:** Mr. Ghadimi. **RECOMMENDATION PASSED.**

Case No. 2007-A-167 (Richard Snure, MD). **RECOMMENDATION** was made by Dr. Weiner to offer the physician an open-ended stipulated license requiring active participation in MTP and other standard substance abuse stipulations. If the physician does not agree to stipulation, the Board will issue a Notice of Contemplated Action based on substance abuse. **YES:** Dr. Kovnat, Dr. Lauriello, Ms. Cochran, Dr. Giudice, and Dr. McRoberts. **ABSTAINED:** Dr. Weiner and Dr. Crespin. **ABSENT:** Mr. Ghadimi. **RECOMMENDATION PASSED.**

Case No. 2007-A-168 (Robert Orchard, MD). **RECOMMENDATION** was made by Dr. Weiner to offer the physician a stipulated license requiring active participation in MTP and other standard substance abuse stipulations; also, requiring no inpatient residential treatment and allowing the physician to practice medicine while in MTP. If the physician does not agree to stipulation, the Board will issue a Notice of Contemplated Action based on substance abuse. **YES:** Dr. Kovnat, Dr. Lauriello, Ms. Cochran, Dr. Giudice, and Dr. McRoberts. **ABSTAINED:** Dr. Weiner and Dr. Crespin. **ABSENT:** Mr. Ghadimi. **RECOMMENDATION PASSED.**

Complaint Committee B:

RECOMMENDATION was made by Ms. Cochran to close complaint cases 2006-B-025; 2006-B-138; 2007-B-031; 2007-B-033; 2007-B-036; 2007-B-072; 2007-B-126; 2007-B-132; 2007-B-139; 2007-B-140; 2007-B-143; 2007-B-150; 2007-B-155; and 2007-B-159; as there was no evidence of a violation of the Medical Practice Act or rules. **YES:** Dr. Kovnat, Dr. Weiner, Dr. Lauriello, Mr. Ghadimi, Dr. Giudice, and Dr. Crespin. **ABSTAINED:** Ms. Cochran and Dr. McRoberts. **RECOMMENDATION PASSED.**

Case No. 2008-B-011 (Jon Wagner). **RECOMMENDATION** was made by Ms. Cochran to offer the physician a stipulated license requiring MTP participation and other standard substance abuse stipulations. If the physician does not agree to stipulation, the Board will issue a Notice of Contemplated Action based on substance abuse **YES:** Dr. Kovnat, Dr. Weiner, Dr. Lauriello, Mr. Ghadimi, Dr. Giudice, and Dr. Crespin. **ABSTAINED:** Ms. Cochran and Dr. McRoberts **RECOMMENDATION PASSED.**

Complaint Committee C:

RECOMMENDATION was made by Dr. Giudice to close complaint cases 2007-C-039; 2007-C-093; 2007-C-095; 2007-C-109; 2007-C-141; 2007-C-142; 2007-C-147; and 2007-C-149 as there was no evidence of a violation of the Medical Practice Act or rules **YES:** Dr. Kovnat, Dr. Weiner, Dr. Lauriello, Ms. Cochran, Mr. Ghadimi, Dr. McRoberts, and Dr. Crespin **ABSTAINED:** Dr. Giudice. **RECOMMENDATION PASSED.**

Case No. 2006-C-091 (Yvonne Van Arsdale-Imani). **RECOMMENDATION** was made by Dr. Giudice to close the case and withdraw the Notice of Contemplated Action. **YES:** Dr. Kovnat, Dr. Weiner, Dr. Lauriello, Ms. Cochran, Mr. Ghadimi, Dr. McRoberts, and Dr. Crespin. **ABSTAINED:** Dr. Giudice. **RECOMMENDATION PASSED.**

Case No. 2007-C-190 (Joan Lewis). **RECOMMENDATION** was made by Dr. Giudice to add the allegation of injudicious prescribing from this case to the Notice of Contemplated Action the Board voted to issue in Case #2007-C-148 in November 2007 involving the same physician. **YES:** Dr. Kovnat, Dr. Weiner, Dr. Lauriello, Ms. Cochran, Mr. Ghadimi, Dr. McRoberts, and Dr. Crespin. **ABSTAINED:** Dr. Giudice. **RECOMMENDATION PASSED.**

Complaint Committee D:

RECOMMENDATION was made by Dr. Lauriello to close complaint cases 2006-D-186; 2007-D-094; 2007-D-144; 2007-D-161 and 2007-D-174, as there was no evidence of a violation of the Medical Practice Act or rules. **YES:** Dr. Kovnat, Dr. Weiner, Ms. Cochran, Dr. Giudice, Dr. McRoberts, and Dr. Crespin. **ABSTAINED:** Dr. Lauriello and Mr. Ghadimi. **RECOMMENDATION PASSED.**

Case No. 2007-D-161. **RECOMMENDATION** was made by Dr. Lauriello to keep open Case No. 2007-D-161 that was previously closed in error. **YES:** Dr. Kovnat, Dr. Weiner, Ms. Cochran, Dr. Giudice, Dr. McRoberts, and Dr. Crespin. **ABSTAINED:** Dr. Lauriello and Mr. Ghadimi **RECOMMENDATION PASSED.**

Case No. 2005-D-142 (Georgette Cooper). **RECOMMENDATION** was made by Dr. Lauriello to allow the physician assistant to withdraw her application for licensure. **YES:** Dr. Kovnat, Dr. Weiner, Ms. Cochran, Dr. Giudice, Dr. McRoberts, and Dr. Crespin **ABSTAINED:** Dr. Lauriello and Mr. Ghadimi. **RECOMMENDATION PASSED.**

Case No. 2006-D-155 (Michael Cutler). **RECOMMENDATION** was made by Dr. Lauriello to allow the physician assistant to withdraw his application for licensure. If the PA fails to withdraw his application for licensure, a Notice of Contemplated Action (NCA) will be issued based on substance abuse. **YES:** Dr. Kovnat, Dr. Weiner, Ms. Cochran, Dr. Giudice, Dr. McRoberts, and Dr. Crespin. **ABSTAINED:** Dr. Lauriello and Mr. Ghadimi. **RECOMMENDATION PASSED.**

Case No. 2007-D-104 (Ray Harron). **RECOMMENDATION** was made by Dr. Lauriello to ask the physician to surrender his license, agreeing to never reapply for licensure in NM. If the physician does not agree to surrender the license, a Notice of Contemplated Action (NCA) will be issued based on action taken in another state. **YES:** Dr. Kovnat, Dr. Weiner, Ms. Cochran, Dr. Giudice, Dr. McRoberts, and Dr. Crespin. **ABSTAINED:** Dr. Lauriello and Mr. Ghadimi **RECOMMENDATION PASSED.**

Case No. 2007-D-152 (Charlesly Joseph). **RECOMMENDATION** was made by Dr. Lauriello to offer the Resident a formal letter of reprimand. If the Resident does not accept the letter of reprimand, a Notice of Contemplated Action (NCA) will be issued based on failure to report
YES: Dr. Kovnat, Dr. Weiner, Ms. Cochran, Dr. Giudice, Dr. McRoberts, and Dr. Crespin
ABSTAINED: Dr. Lauriello and Mr. Ghadimi **RECOMMENDATION PASSED.**

Case No. 2007-D-157 (Allen Bruce). **RECOMMENDATION** was made by Dr. Lauriello to refer this case to the District Attorney's office based on unlicensed practice. **YES:** Dr. Kovnat, Dr. Weiner, Ms. Cochran, Dr. Giudice, Dr. McRoberts, and Dr. Crespin. **ABSTAINED:** Dr. Lauriello and Mr. Ghadimi. **RECOMMENDATION PASSED.**

Board Committee

Case No. 2008-BRD-018. (George Swartz, MD). **MOTION** was made by Dr. Kovnat to issue a Notice of Contemplated Action for failure to comply with the Parental Responsibility Act.
SECONDED by Dr. Weiner. **YES:** Dr. Weiner, Dr. Lauriello, Ms. Cochran, Mr. Ghadimi, Dr. Giudice, Dr. McRoberts, and Dr. Crespin. **ABSTAINED:** Dr. Kovnat. **MOTION CARRIED.**

B. Executive Committee Report

The Board reviewed the reports on criminal background arrest records "hits" compiled by the Executive Committee. The Executive Committee members are Dr. Kovnat, Dr. Weiner, and Lynn Hart.

MOTION was made by Dr. Giudice to accept the Executive Committee's recommendations, as reported, on criminal background arrest records, disciplinary arrest records, and other reported actions. **SECONDED** by Ms. Cochran. **YES:** Dr. Lauriello, Ms. Cochran, Mr. Ghadimi, Dr. Giudice, Dr. McRoberts, and Dr. Crespin. **ABSTAINED:** Dr. Kovnat and Dr. Weiner. **MOTION CARRIED.**

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

- Thomas Nelius, MD – Request Exception to 7 Year Rule
Following Dr. La Farge's presentation and a lengthy discussion, **MOTION** was made by Ms. Cochran to postpone action until the Board determines if Dr. Nelius' German program is substantially equivalent to the required approved postgraduate training required by the Board. **SECONDED** by Dr. McRoberts. **YES:** Dr. Lauriello, Ms. Cochran, Dr. Giudice, Dr. McRoberts, and Dr. Crespin. **NO:** Dr. Kovnat, Dr. Weiner, and Mr. Ghadimi. **MOTION CARRIED.**

7. **REPORTS:**

A. Chair

- FSMB Attendees
Dr. Kovnat sought board members that might be able to attend the 2008 Annual Federation of State Medical Boards Meeting, May 1-3, 2008, in San Antonio, Texas. Ms. Cochran, Mr. Ghadimi, and Dr. Crespin volunteered. One of the board members attending will be designated as the voting member for the NM Medical Board.
- FSMB Visitation
The Federation of State Medical Boards (FSMB) would like to meet with the NM Medical Board and attend one of the 2008 board meetings. The Board recommended inviting FSMB to attend the May 2008 meeting.
- Amend Interim Board Meeting Scheduled Start Time
The Board decided to reschedule the April Interim Meeting from April 3rd to April 1st, beginning at 4:00 p.m.

- Board Members Attendance
MOTION was made by Mr. Ghadimi to excuse Richard Heim, Public Member, from attending the last three board meetings for health reasons. **SECONDED** by Dr. Crespin. **YES:** Dr. Kovnat, Dr. Weiner, Dr. Lauriello, Ms. Cochran, Mr. Ghadimi, Dr. Giudice, Dr. McRoberts, and Dr. Crespin. **MOTION CARRIED.**

B. Executive Director

- Health Policy Commission Physician Survey Report
 The Health Policy Commission Physician Survey Report prepared by the Health Policy Commission was distributed to board members. The Health Policy Commission has requested that the NMMB send this survey to all NM licensed physicians
- Application Fee Waiver
 Ms. Hart summarized recent legislation (SB 127) that would authorize licensure fees to be waived for applicants who choose New Mexico as the first state of licensure. The intent of the legislation is to promote medical doctor recruitment. SB 127 as originally introduced authorized an \$80,000 general fund appropriation to cover operating expenses of the proposal. The \$80,000 appropriation was removed by the Senate Finance Committee; however, the authority to waive the fee remained. SB 127 also extends the Sunset date of the Medical Practice Act from 2009 to 2015. SB 127 passed both houses and is waiting for the Governor's signature.

In November the Board adopted a rule revision stating: "If New Mexico is the first state of licensure, initial licenses are valid for a period of not less than 24 months or more than 35 months and shall be renewed on July 1".

MOTION was made by Dr. Crespin to waive licensure application fees for applicants who choose New Mexico as the first state of licensure, effective July 1, 2008. The Board will review the impact to the Board's budget during the next fiscal year and determine the feasibility of this action annually. **Seconded** by Mr. Ghadimi. **YES:** Dr. Kovnat, Dr. Weiner, Dr. Lauriello, Ms. Cochran, Mr. Ghadimi, Dr. Giudice, Dr. McRoberts, and Dr. Crespin. **MOTION CARRIED.**

- Legislative Update
 Ms. Hart, on behalf of the Board, has been tracking four major bills. She provided updates under this section, as well as, under Old Business. Details on the legislation are covered in these Minutes under "Old Business, Letter A".

HB 177 amending the Medical Practice Act passed after it was amended to remove the entire section pertaining to peer review records. The authority for emergency summary suspension and the two new fees remain. Ms. Hart has submitted a request on behalf of the Board for signature to the Governor's office. Ms. Hart explained the peer review section was removed by Amendment offered in the Senate Judiciary Committee after objections were expressed by the trial attorneys. The staff will work with all parties, including the Hospital Association, and the trial lawyers during the interim to seek consensus language.

- Personnel Matters
 Ms. Hart announced Carol Tyrell, Nurse Investigator, has accepted a position with the Department of Health as Manager of the Maternal and Child Health Division.

C. Medical Director

• 2008 Medical Doctors by County

Dr. La Farge presented the Board with an analysis of the number of physicians currently practicing in each county of New Mexico. This analysis also indicates whether the number of physicians in each county has increased or decreased. The analysis is based on current NM business addresses. According to the analysis, New Mexico had gained physicians as of December 31, 2007.

The Board **RECESSED** at 12:10 for lunch. During lunch, Corliss Thalley, Retired Assistant Attorney General, was honored for her many years of service to the NM Medical Board.

The Board **RECONVENED** from lunch at 1:00 p.m.

D. Assistant Attorney General

• Elias Said, M.D. – Request to revise 2004 HIPDB report

Dr. Elias Said has requested that the NM Medical Board issue a correction to its report made to the Healthcare Integrity and Protection Data Bank (HIPDB) of the final adverse action taken by the Board in 2004 against Dr. Said, in which the Board denied licensure.

MOTION was made by Dr. Kovnat to issue a correction to strike "fraud or" in the description of acts contained in the Healthcare Integrity and Protection Data Bank (HIPDB) report. **SECONDED** by Dr. McRoberts. **YES:** Dr. Kovnat, Dr. Weiner, Dr. Lauriello, Ms. Cochran, Dr. Giudice, Dr. McRoberts, and Dr. Crespin. **ABSTAINED:** Mr. Ghadimi. **MOTION CARRIED.**

E. Administrative Prosecutor

• Senate Memorial 48

Mr. Khalsa updated the Board regarding the Senate Memorial from 2007 relating to the public's right to access safe and effective traditional, cultural, complementary and alternative health care remedies. When introduced next legislative session, the bill should include that individuals practicing alternative health care may not provide a traditional western diagnosis.

• Percentage of Management Fees

The Board discussed an inquiry regarding a potential financial relationship by a company providing infusion therapy to private practices, and determined the proposed financial arrangement, does not, in theory, violate the NM Medical Practice Act.

F. Licensing Manager

Ms. Quintana reported that 125 out of 229 Physician Assistants have not renewed as of February 14, 2008. The deadline for renewal is March 1, 2008, and second notices have been mailed out.

• Review of MD – PA Application

The Board discussed various portions of the license application that might be revised. They decided to form a task force to review the application and provide recommendations to the full board, keeping in mind the Board uses a statewide application approved by Hospital Services Corporation, the NM Medical Society and the NM Hospitals & Health Systems Association. Ms. Cochran, Mr. Ghadimi, and Dr. Kovnat volunteered to serve on the task force along with staff members Lynn Hart, Dr. La Farge, and Amanda Quintana.

- Professional Practice and Oath Questions
The Board recommended including articles in the Board's newsletter clarifying appropriate responses to the professional practice questions
 - Addition of NPI Number
Staff recommended revising the "Licensure-Registration – Certification Information" page of the MD application to include the providers National Provider Identification Number. The application review task force will review this revision.
- G. Financial / HR Manager
- Audit Fiscal Year 07
Ms. Mascarenas reported the audit for Fiscal Year 07 would be released on February 19th and will be presented at the next board meeting for approval.
 - Budget Status Report FY 08 & FY 09
Ms. Mascarenas updated the Board and responded to questions on the status of the current fiscal year budget and the budget request for Fiscal Year 09 that begins on July 1, 2008. She also updated the Board regarding the status of the Medical Director position being transitioned from a contract position to a term position
 - Per Diem Report
Ms. Mascarenas reported the Board's budget includes funds for a limited number of board members to attend the FSMB annual meeting, in addition to the two (2) delegates funded by FSMB. She will report on per diem rates and reimbursement once there is a decision on proposed legislation regarding per diem rates. Ms. Hart and Ms. Mascarenas will also draft procedures for board members requesting reimbursement for review at the May meeting.
 - HR Update
Ms. Mascarenas updated the Board regarding staff vacancies. Carol Tyrrell's last day is February 22, 2008, and interviews are being scheduled to fill the Finance/Human Resource position vacated by Angel Roybal.
 - Alternative Dispute Resolution
Ms. Mascarenas summarized the requirements outlined in the Governmental Dispute Prevention and Resolution Act. She also outlined the actions that staff are taking to implement and enforce the Act.
 - State Loss Prevention
Ms. Mascarenas summarized the requirements outlined in the State Loss Prevention and Control Program. She also reported the actions staff are taking to implement a loss prevention and control plan
- H. Administrative
- Amend 2008 Board Calendar
The Board confirmed the dates for the May 2008 quarterly board meeting will remain May 22 and 23.
 - FSMB Convention Information
The Board was provided a copy of the draft agenda for the Federation of State Medical Boards (FSMB) 2008 annual meeting.

I. Compliance Department

• Compliance Task Force

The Compliance Task Force met on February 8, 2008 to discuss Dr. Barry Maron's proposal to create an ad hoc committee and correspondence from Dr. Ann Gateley, UNM School of Medicine. The Board reviewed Dr. Maron's recommendations and will take them under consideration when negotiating future monitored treatment program contracts. The Board discussed Dr. Gateley's concerns with the Monitored Treatment Program Directors and with the Residents being monitored by MTP.

• April 2008 Draft Newsletter

The Board reviewed a draft of the April 2008 newsletter and discussed possible articles to include.

8. **COMPLIANCE:**

EXECUTIVE SESSION:

MOTION was made by Dr. Kovnat to go into closed 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. **SECONDED** by Ms. Cochran. **YES:** Dr. Kovnat, Dr. Weiner, Dr. Lauriello, Ms. Cochran, Mr. Ghadimi, Dr. Giudice, Dr. McRoberts, and Dr. Crespin. **MOTION CARRIED.**

9. **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.

A. Board Monitored Compliance Report - [non MTP]

Ms. Walker provided compliance summaries for the Board's review and reported no participants out of compliance.

B. NM Monitored Treatment Program (MTP) Report

Jon Thayer, MTP Executive Director, Dan Collins, M.D., MTP Medical Director, and Connie Merrell, MTP Clinical Director, were present to discuss the status of mandatory MTP participants. They reported all participants were in compliance this quarter.

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.

C. Board Order – Richard Gritzmacher, MD (request probation be terminated)

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

D. Board Order – Ambrosio Solano, MD (request probation be terminated)

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

E. Informal Interviews

James Hartenbach, MD; Barry Maron, MD; Robert Graor, MD; Keith McClung, MD; Christopher Gallagher, MD; Sandy Herrin, MD; Alonso Pacheco, MD; and

Timothy Busch, PA were interviewed in Executive Session regarding current practices and compliance with the Board. James Bradley, MD, was excused from attending this meeting. Johnnie Vigil, MD, was absent.

MOTION was made by Dr. Kovnat to allow James Hartenbach, MD, to return to medical practice under his current stipulations. **SECONDED** by Ms. Cochran. **YES:** Dr. Kovnat, Dr. Weiner, Ms. Cochran, Dr. Giudice, Dr. McRoberts, Dr. Lauriello, Mr. Ghadimi, and Dr. Crespín. **MOTION CARRIED.**

MOTION was made by Dr. Weiner to offer Barry Maron, MD, a letter of understanding on the limits of his practice. If Dr. Maron agrees to the limitations, the Board will release him from stipulation. **SECONDED** by Ms. Cochran. **YES:** Dr. Kovnat, Dr. Weiner, Dr. Lauriello, Ms. Cochran, Dr. Giudice, Dr. McRoberts, and Dr. Crespín. **RECUSED:** Mr. Ghadimi. **MOTION CARRIED.**

The Board **RECESSED** at 4:50 p.m. on Thursday, February 14, 2008.

FRIDAY, February 15, 2008

The Board **RECONVENED** the regular meeting at 9:02 a.m. on Friday, February 15, 2008, and a quorum was determined present. **MEMBERS PRESENT:** Dr. Kovnat, Dr. Weiner, Dr. Lauriello, Ms. Cochran, Mr. Ghadimi, Dr. Giudice, Dr. McRoberts, and Dr. Crespín. **MEMBERS ABSENT:** Mr. Heim. **OTHERS PRESENT:** See list of attendees attached to these Minutes.

10. DR. BROWN, PRESIDENT OF GAMA [GREATER ALBUQUERQUE MEDICAL ASSOCIATION] & DR. MARK CHIU: Scope of Practice Discussion

Lee Brown, MD, President of GAMA, and representing the NM Medical Society (NMMS), along with Mark Chiu, MD, President-Elect of GAMA and President of the NM Academy of Ophthalmology, appeared before the Board to discuss issues related to scope of practice, primarily issues relating to expansions in scopes of practice that may be over-lapping or violating the Medical Practice Act, in response to NMMS Resolution B-201.

In May of 2007, the NMMS House of Delegates adopted Resolution B-201 which states: New Mexico Medical Board Should Assert Control Over Determining the Scope of Practice of Non-Physician Medical Practitioners in New Mexico. Resolution B-201 resolved that the NMMS Council direct its staff and counsel to request the NMMB collaborate to prepare a report evaluating (1) 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; and (2) whether the NMMB has exercised such authority; and (3) the powers granted by statute to the regulatory and licensing boards of other allied professional health fields with respect to defining the scope of practice of their own licensees; and (4) report its findings back to the NMMS Council and request that they be reported to the NMMB within six months of the adoption of this resolution; and, be it further resolved that at the conclusion of an evaluation conducted by the NMMS in collaboration with the NMMB, directed toward examining the authority of the NMMB in defining and regulating the practice of medicine, the NMMB Council issue a statement detailing the findings resulting from such evaluation along with any recommendations related thereto it feels would be appropriate.

The Board agreed to explore scope of practice issues in collaboration with the Attorney General's office, the NMMS, and the Regulation and Licensing Department.

11. OLD BUSINESS: **A. Legislative Session Update**

The Governor has until **March 5, 2008** to act on bills that passed both Houses

1. HB 37 – Electronic Medical Records
HB 37 requiring the NM Telehealth & Health Information Technology Commission to develop plans for implementing electronic insurance and medical record systems **did not pass**.

2. HB 177 – Medical License Suspensions and Reporting
HB 177 amending the Medical Practice Act **passed** after it was amended to remove the entire section pertaining to peer review records. The authority for emergency summary suspension and the two new fees remain. Ms. Hart has submitted a request on behalf of the Board for signature to the Governor's office

3. SB 127 – Waive Licensure Fees for Medical Records
SB 127 authorizing licensure fees to be waived for applicants who choose New Mexico as the first state of licensure. The intent of the legislation is to promote medical doctor recruitment. SB 127 as originally introduced authorized an \$80,000 general fund appropriation to cover operating expenses of the proposal. The \$80,000 appropriation was removed by the Senate Finance Committee; however, the authority to waive the fee remained. SB 127 also extends the Sunset date of the Medical Practice Act from 2009 to 2015. SB 127 **passed** both houses and is waiting for the Governor's signature.

4. SB 485 – Anesthesiologist Assistants
SB 485 amending the Medical Practice Act to expand Anesthesiologist Assistants' services to all of New Mexico by revising the employment requirements and increasing the number of Anesthesiologist Assistants an Anesthesiologist may supervise **did not pass**.

5. Health Reform Bill
HB 62 enacting the Health Solutions New Mexico Act and Creating the Health Care Authority **did not pass**

6. Other Bills of Interest
HB 89 amending the Umbilical Cord Blood Banking Act to add physician assistants under the definitions of health care providers **passed** both houses and is waiting for the Governor's signature. Ms. Hart has submitted a request on behalf of the Board for signature to the Governor's office.

SB 269 creating the Polysomnography Practice Act and providing for licensure of Polysomnographic Technicians & Technologists within the Medical Practice Act **passed** both houses and is waiting for the Governor's signature. If signed, the NMMB will need to initiate implementing procedures. There is an estimated 100–150 Polysomnographic Technicians.

SB 415 amending the Medical Practice Act to include licensing requirements for Genetic Counselors **passed** both houses and is waiting for the Governor's signature. If signed, the NMMB will need to initiate implementing procedures. There are an estimated 15 Genetic Counselors.

HB 275 amending the Chiropractic Physician Practice Act to include “Advanced Practice Chiropractic Certification”, including developing a formulary for prescriptive authority approved by the NMMB and the Board of Pharmacy **passed** both houses and is waiting for the Governor’s signature. HB 275 states the Advanced Practice Chiropractic Physician may prescribe, administer and dispense for therapeutic and diagnostic purposes related to nutrition and pain management with natural agents. HB 275 expands prescriptive authority to include “the administering of a drug by injection by a certified advanced practice chiropractic physician”. HB 275 excludes prescriptive authority for controlled or dangerous drugs. The NMMS followed this bill closely.

12. NEW BUSINESS:

A. Proposed Rule Changes

- **16.10.6 NMAC – Complaint Procedure & Institution of Disciplinary Action [Parental Responsibility Act]**
The revision to Part 6 adds a section entitled Parental Responsibility Act Compliance that outlines the regulations for complying with the Parental Responsibility Act

- **16.10.13 NMAC – Delegated Use of Devices and Procedures by Medical Assistants; Cosmetic Injections**
The revisions to Part 13 incorporate recommendations received from the American Society for Dermatologic Surgery based on nationwide issues related to consumer deception in advertising and treatment of patients that have developed complications from cosmetic procedures. The proposed revisions clarify the definition of “medical therapeutic or cosmetic medical procedure device, or treatment”.

This revision adds a Public Communication section addressing advertising cosmetic procedures; stating the public communication needs to identify the physician or surgeon responsible for the supervision of the procedure. It further states the communication needs to identify the specialty of the physician.

- **16.10.16 NMAC – Administering, Prescribing and Distribution of Medications**
The revisions to Part 16, remove the archaic formulary language for Physician Assistants prescribing.

MOTION was made by Mr. Ghadimi to accept the revisions to Part 6, Part 13, and Part 16 as proposed. The proposed revisions will be made available for public comment, and published pursuant to the Open Meetings Act, prior to a rule hearing planned for the May Board meeting. **SECONDED** by Dr. Crespin. **YES:** Dr. Kovnat, Dr. Lauriello, Ms. Cochran, Mr. Ghadimi, Dr. Giudice, Dr. McRoberts, and Dr. Crespin. **ABSENT:** Dr. Weiner. **MOTION CARRIED.**

- Does the NM Medical Board have authority under the MPA to create a limited license type (i.e., administrative only) without the limited license being punitive? The Board’s Assistant Attorney General and Public Information Officer will research the issue of non-disciplinary limited licenses

B. NM Medical Society – Discussion of Rules

Ms. Walker was directed to contact the NM Medical Society regarding whether CME hours can be earned for serving on the Board

C. Correspondence

A letter was received requesting the Board to issue a statement encouraging doctors of liver transplant recipients to work toward creating personalized, multi-disciplinary emergency plans for their liver transplant patients. The Board directed Dr. La Farge to prepare a response.

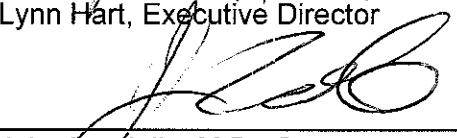
13. DR. MICHAEL GENDEL – IMPAIRED PRACTITIONER PRESENTATION & DISCUSSION:

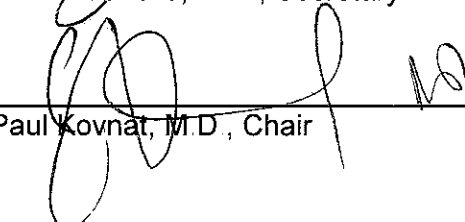
Michael H. Gendel, MD, Medical Director, Colorado Physician Health Program, gave the Board and invited guests an educational and enlightening presentation on "Physician Behavior Problems".

ADJOURN:

There being no further business, the meeting adjourned at 2:35 p.m.

SUBMITTED BY:  DATE: 5/23/08
Lynn Hart, Executive Director

APPROVED BY:  DATE: 5/23/08
John Lauriello, M.D., Secretary

APPROVED BY:  DATE: 5/23/08
Paul Kovnat, M.D., Chair