

NEW MEXICO MEDICAL BOARD
Third Quarterly Meeting
August 21-22, 2008

MINUTES

1. CALL TO ORDER

The regular meeting of the New Mexico Medical Board convened at 8:31 a.m., Thursday, August 21, 2008 in the Board Conference Room, 2055 S. Pacheco, Santa Fe, New Mexico, *Paul Kovnat, M.D.* presiding. A quorum was declared with all members present except John Lauriello, M.D. Dr. Lauriello joined the meeting at 8:50 a.m.

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.
Dick Heim, Public Member
Robert McRoberts, M.D.
Frank Crespin, M.D.

Also Present:

Lynn Hart, Executive Director
Grant La Farge, M.D., Medical Director
Andrea Buzzard, Assistant Attorney General
G. I. S. Khalsa, Board Prosecutor
J. J. Walker, Compliance Manager / P.I.O.
Lynn Tipton, Administrative Assistant
Geraldine Mascarenas, Financials / HR Manager
Amanda Quintana, Licensing Manager

2. APPROVAL OF AGENDA

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

3. APPROVAL OF MINUTES

MOTION was made by Dr. Kovnat to approve the Minutes from the June 26, 2008 interim meeting. **SECONDED** by Dr. Crespin. **YES:** Dr. Kovnat, Mr. Heim, Ms. Cochran, Dr. Crespin, Dr. McRoberts, Dr. Weiner, Dr. Giudice, and Mr. Ghadimi. **ABSENT:** Dr. Lauriello. **MOTION CARRIED**

MOTION was made by Dr. Kovnat to approve the Minutes from the July 22, 2008 special meeting. **SECONDED** by Mr. Heim. **YES:** Dr. Kovnat, Mr. Heim, Ms. Cochran, Dr. Crespin, Dr. McRoberts, Dr. Weiner, Dr. Giudice, and Mr. Ghadimi. **ABSENT:** Dr. Lauriello. **MOTION CARRIED**

4. COMPLAINT COMMITTEED REPORTS

Debbie Dieterich explained a new policy and procedure that is being implemented regarding Stipulations and Orders. These documents will be drafted post board meeting and presented for approval by the respected

complaint committee chairs for approval prior to being executed by the board chair and sent to the individual licensees.

MOTION was made by Dr. Kovnat to go into executive session pursuant to Section 10-15-1(H)(1) of the Open Meetings Act to discuss matters to licensure. **SECONDED** by Ms. Cochran. **YES:** Dr. Kovnat, Mr. Heim, Ms. Cochran, Dr. Crespin, Dr. McRoberts, Dr. Weiner, Dr. Giudice, and Mr. Ghadimi. **ABSENT:** Dr. Lauriello. **MOTION CARRIED**

The Board reconvened into 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.

5. ACTIONS RELATED TO EXECUTIVE SESSION

A. Licensees & Applicants

- **Committee A:**

Complaint Cases: On behalf of Complaint Committee A, Dr. Crespin **MOVED** that complaint cases 2007-A-191; 2008-A-021; 2008-A-022; 2008-A-033; 2008-A-042; 2008-A-046; 2008-A-053; 2008-A-058 be closed as there was no evidence of a violation of the Medical Practice Act or rules. No second was required. **YES:** Dr. Kovnat, Mr. Heim, Ms. Cochran, Dr. McRoberts, Dr. Giudice, Mr. Ghadimi and Dr. Lauriello. **ABSTAINED:** Dr. Weiner and Dr. Crespin. **MOTION CARRIED**

Complaint Case 2007-A-188 Dr. Crespin **MOVED** to issue an advisory letter regarding disclosure. No second was required. **YES:** Dr. Kovnat, Mr. Heim, Ms. Cochran, Dr. McRoberts, Dr. Giudice, Mr. Ghadimi and Dr. Lauriello. **ABSTAINED:** Dr. Weiner and Dr. Crespin. **MOTION CARRIED**

Complaint Case 2008-A-015 Dr. Crespin **MOVED** to issue a Notice of Contemplated Action based on action in another state. No second was required. **YES:** Dr. Kovnat, Mr. Heim, Ms. Cochran, Dr. McRoberts, Dr. Giudice, Mr. Ghadimi and Dr. Lauriello. **ABSTAINED:** Dr. Weiner and Dr. Crespin. **MOTION CARRIED**

Complaint Case 2008-A-050 Dr. Crespin **MOVED** to issue a Notice of Contemplated Action based on action in another state. No second was required. **YES:** Dr. Kovnat, Mr. Heim, Ms. Cochran, Dr. McRoberts, Dr. Giudice, Mr. Ghadimi and Dr. Lauriello. **ABSTAINED:** Dr. Weiner and Dr. Crespin. **MOTION CARRIED**

Complaint Case 2008-A-105 Dr. Crespin **MOVED** to draft a letter notifying licensee of referral to MTP for an assessment. The case will remain open and the committee will review case for November meeting. No action was required.

Complaint Case 2008-A-134 Dr. Crespin **MOVED** to offer a Stipulated Order requiring physician's mandatory participation with MTP and agreement not to practice until MTP and the board decide physician is not a danger to the public. This Stipulated Order is reportable to the National Practitioners Data Bank. If licensee refuses, a Notice of Contemplated Action will be issued based on substance abuse. No second was required. **YES:** Dr. Kovnat, Mr. Heim, Ms. Cochran, Dr. McRoberts, Dr. Giudice, Mr. Ghadimi and Dr. Lauriello. **ABSTAINED:** Dr. Weiner and Dr. Crespin. **MOTION CARRIED**

- **Committee AA:**

Complaint Case 2006-AA-147 Dr. Weiner **MOVED** to issue physician a Stipulated License requiring physician have a chaperone for all female clients and a chaperone for all patients under 18 years of age at all times while licensed in New Mexico. If physician does not comply with conditions, a Notice of Contemplated Action will be issued. The condition of this stipulation is that a written waiver of the statute of limitations for thirty days be received in the board office by the end of the day, August 21, 2008. No second was required. **YES:** Dr. Kovnat, Mr. Heim, Dr. Crespin, Dr. McRoberts, Dr. Giudice, Mr. Ghadimi and Dr. Lauriello. **ABSTAINED:** Dr. Weiner and Ms. Cochran. **MOTION CARRIED**

MOTION was made by Dr. Kovnat to go into executive session pursuant to Section 10-15-1(H)(1) of the Open Meetings Act to discuss matters of licensure. **SECONDED** by Mr. Heim. **YES:** Dr. Kovnat, Mr. Heim, Ms. Cochran, Dr. Crespin, Dr. McRoberts, Dr. Weiner, Dr. Giudice, and Mr. Ghadimi. **ABSENT:** Dr. Lauriello. **MOTION CARRIED**

The Board reconvened into 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.

Complaint Case 2006-AA-171 Dr. Weiner **MOVED** to deny physician's request to amend his Stipulation. No second was required. **YES:** Dr. Kovnat, Mr. Heim, Dr. Crespin, Dr. McRoberts, Dr. Giudice, Mr. Ghadimi and Dr. Lauriello. **ABSTAINED:** Dr. Weiner and Ms. Cochran. **MOTION CARRIED**

Complaint Case 2007-AA-023 Dr. Weiner **MOVED** to issue a Notice of Contemplated Action based on fraud or misrepresentation in applying for licensure. No second was required. **YES:** Dr. Kovnat, Mr. Heim, Dr. Crespin, Dr. McRoberts, Dr. Giudice, Mr. Ghadimi and Dr. Lauriello. **ABSTAINED:** Dr. Weiner and Ms. Cochran. **MOTION CARRIED**

- **Committee B:**

Complaint Cases: On behalf of Complaint Committee B, Ms. Cochran **MOVED** that complaint cases 2008-B-006, 2008-B-038 and 2008-B-043 be closed as there was no evidence of a violation of the Medical Practice Act or rules. No second was required. **YES:** Dr. Kovnat, Mr. Heim, Dr. Weiner, Dr. Crespin, Dr. Giudice, Mr. Ghadimi and Dr. Lauriello. **ABSTAINED:** Ms. Cochran and Dr. McRoberts. **MOTION CARRIED**

Complaint Cases: On behalf of Complaint Committee B, Ms. Cochran **MOVED** that complaint cases 2008-B-124, 2008-B-128 and 2008-B-132 be to issue an advisory letter regarding disclosure. No second was required. **YES:** Dr. Kovnat, Mr. Heim, Dr. Weiner, Dr. Crespin, Dr. Giudice, Mr. Ghadimi and Dr. Lauriello. **ABSTAINED:** Ms. Cochran and Dr. McRoberts. **MOTION CARRIED**

Complaint Case 2007-B-163 Ms. Cochran **MOVED** to close case with no action now that physician has complied with the AMA Code of Ethics. No second was required. **YES:** Dr. Kovnat, Mr. Heim, Dr. Weiner, Dr. Crespin, Dr. Giudice, Mr. Ghadimi and Dr. Lauriello. **ABSTAINED:** Ms. Cochran and Dr. McRoberts. **MOTION CARRIED**

Complaint Case 2008-B-011 Ms. Cochran **MOVED** to issue a Notice of Contemplated Action based on conduct unbecoming in a person licensed to practice medicine. No second was required. **YES:** Dr. Kovnat, Mr. Heim, Dr. Weiner, Dr. Crespin, Dr. Giudice, Mr. Ghadimi and Dr.

Lauriello. **ABSTAINED:** Ms. Cochran and Dr. McRoberts. **MOTION CARRIED**

Complaint Case 2008-B-098 Ms. Cochran **MOVED** to issue a letter to physician notifying him of referral to MTP for assessment. The case will remain open and return to the complaint committee for final determination. No second was required. **YES:** Dr. Weiner, Dr. Crespin, Dr. Giudice and Dr. Lauriello. **NO:** Dr. Kovnat, Mr. Heim and Mr. Ghadimi. **ABSTAINED:** Ms. Cochran and Dr. McRoberts. **MOTION CARRIED**

Complaint Case 2008-B-102 Dr. McRoberts **MOVED** to issue accepting voluntary surrender of his medical license. No second was required. **YES:** Dr. Kovnat, Mr. Heim, Dr. Weiner, Dr. Crespin, Dr. Giudice, Mr. Ghadimi and Dr. Lauriello. **ABSTAINED:** Ms. Cochran and Dr. McRoberts. **MOTION CARRIED**

Complaint Case 2008-B-106 Dr. McRoberts **MOVED** to issue a letter to physician notifying him of referral to MTP for assessment. The case will remain open and return to the complaint committee for final determination. No action required at this time.

Complaint Case 2008-B-120 Ms. Cochran **MOVED** to issue a Notice of Contemplated Action based on action in another state. No second was required. **YES:** Dr. Kovnat, Mr. Heim, Dr. Weiner, Dr. Crespin, Dr. Giudice, Mr. Ghadimi and Dr. Lauriello. **ABSTAINED:** Ms. Cochran and Dr. McRoberts. **MOTION CARRIED**

Complaint Case 2008-B-127 Ms. Cochran **MOVED** to offer physician a Stipulated License requiring MTP participation. If licensee refuses a Notice of Contemplated Action will be issued. No second was required. **YES:** Dr. Kovnat, Mr. Heim, Dr. Weiner, Dr. Crespin, Dr. Giudice, Mr. Ghadimi and Dr. Lauriello. **ABSTAINED:** Ms. Cochran and Dr. McRoberts. **MOTION CARRIED**

- **Committee C:**

Complaint Cases: On behalf of Complaint Committee C, Dr. Giudice **MOVED** that complaint cases 2005-C-130, 2008-C-004, 2008-C-012, 2008-C-016, 2008-C-034, 2008-C-040, 2008-C-048 and 2008-C-103 be closed as there was no evidence of a violation of the Medical Practice Act or rules. No second was required. **YES:** Dr. Kovnat, Dr. Weiner, Dr. Crespin, Dr. McRoberts, Mr. Ghadimi and Ms. Cochran. **ABSTAINED:** Dr. Giudice and Mr. Heim. **ABSENT:** Dr. Lauriello. **MOTION CARRIED**

Complaint Case 2008-C-023 Dr. Giudice **MOVED** to issue an advisory letter regarding disclosure. No second was required. **YES:** Dr. Kovnat, Ms. Cochran, Dr. Weiner, Dr. Crespin, Dr. McRoberts, Mr. Ghadimi and Dr. Lauriello. **ABSTAINED:** Dr. Giudice and Mr. Heim. **MOTION CARRIED**

Complaint Case 2007-C-162 Dr. Giudice **MOVED** to issue an advisory letter regarding patient consent form. No second was required. **YES:** Dr. Kovnat, Ms. Cochran, Dr. Weiner, Dr. Crespin, Dr. McRoberts, Mr. Ghadimi and Dr. Lauriello. **ABSTAINED:** Dr. Giudice and Mr. Heim. **MOTION CARRIED**

Complaint Case 2003-C-072 Dr. Giudice **MOVED** to issue a letter to physician notifying him of referral to MTP for assessment. The case will remain open and return to the complaint committee for final determination. No action required at this time.

Complaint Case 2005-C-169 Dr. Giudice **MOVED** to offer physician an Order requesting physician not to renew his NM license or reapply to NM to practice medicine. If physician does not accept, issue a Notice of Contemplated Action based on gross negligence. No second was required. **YES:** Dr. Kovnat, Dr. Weiner, Dr. Crespin, Dr. McRoberts, Mr. Ghadimi, Ms. Cochran and Dr. Lauriello. **ABSTAINED:** Dr. Giudice and Mr. Heim. **MOTION CARRIED**

Complaint Case 2008-C-097 Dr. Giudice **MOVED** to issue a Notice of Contemplated Action based on gross negligence. No second was required. **YES:** Dr. Kovnat, Dr. Weiner, Dr. Crespin, Dr. McRoberts, Mr. Ghadimi, Ms. Cochran and Dr. Lauriello. **ABSTAINED:** Dr. Giudice and Mr. Heim. **MOTION CARRIED**

- **Committee D:**

Complaint Cases: On behalf of Complaint Committee D, Dr. Lauriello **MOVED** that complaint cases 2008-D-013, 2008-D-041, 2008-D-045 and 2008-D-061 be closed as there was no evidence of a violation of the Medical Practice Act or rules. No second was required. **YES:** Dr. Kovnat, Dr. Weiner, Dr. Crespin, Dr. McRoberts, Dr. Giudice, Mr. Heim and Ms. Cochran. **ABSTAINED:** Dr. Lauriello and Mr. Ghadimi. **MOTION CARRIED**

Complaint Case 2008-D-036 Dr. Lauriello **MOVED** to issue an advisory letter regarding patient confidentiality. No second was required. **YES:** Dr. Kovnat, Dr. Weiner, Dr. Crespin, Dr. McRoberts, Dr. Giudice, Mr. Heim and Ms. Cochran. **ABSTAINED:** Dr. Lauriello and Mr. Ghadimi. **MOTION CARRIED**

Complaint Cases 2007-D-130 and 2008-D-057 are to remain under investigation. No action was required.

Complaint Case 2008-D-024 Dr. Lauriello **MOVED** to offer physician a Stipulated Order to suspend license based on action in another state and non disclosure of action in another state. Physician must complete terms and conditions set forth in current stipulation of licensure in another state. If Stipulated Order is not accepted, issue a Notice a Contemplated Action based on action in another state. No second was required. **YES:** Dr. Kovnat, Dr. Weiner, Dr. Crespin, Dr. McRoberts, Dr. Giudice, Mr. Heim and Ms. Cochran. **ABSTAINED:** Dr. Lauriello and Mr. Ghadimi. **MOTION CARRIED**

Complaint Case 2008-D-109 Dr. Lauriello **MOVED** to issue a Notice a Contemplated Action based on fraud and misrepresentation on licensure and renewal applications. No second was required. **YES:** Dr. Kovnat, Dr. Weiner, Dr. Crespin, Dr. McRoberts, Dr. Giudice, Mr. Heim and Ms. Cochran. **ABSTAINED:** Dr. Lauriello and Mr. Ghadimi. **MOTION CARRIED**

Complaint Case 2008-D-131 Dr. Lauriello **MOVED** to keep case under investigation and make a final determination at the November meeting. No action required at this time.

B. Executive Committee Reports

- **Criminal History Hits**

Ms. Cochran **MOVED** to accept the committee report as presented. **SECONDED:** Dr. Lauriello. **YES:** Dr. Crespin, Ms. Cochran, Dr. McRoberts, Dr. Giudice, Mr. Heim, Mr. Ghadimi and Dr. Lauriello. **ABSTAINED:** Dr. Kovnat and Dr. Weiner. **MOTION CARRIED**

- **Other Cases**

Ms. Cochran **MOVED** to accept the committee report as presented. **SECONDED:** Dr. Lauriello.

YES: Dr. Crespin, Ms. Cochran, Dr. McRoberts, Dr. Giudice, Mr. Heim, Mr. Ghadimi and Dr. Lauriello. **ABSTAINED:** Dr. Kovnat and Dr. Weiner. **MOTION CARRIED**

MOTION was made by Dr. Kovnat to go into executive session pursuant to Section 10-15-1(H)(1) of the Open Meetings Act to discuss matters of licensure and discipline. **SECONDED** Ms. Cochran. **YES:** Dr. Kovnat, Mr. Heim, Ms. Cochran, Dr. Crespin, Dr. McRoberts, Dr. Weiner, Dr. Giudice, Mr. Ghadimi and Dr. Lauriello. **MOTION CARRIED**

5. The Board reconvened into 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. REPORTS

A. **Chair** – After review of the Organizational chart presented by Ms. Hart, Dr. Kovnat has asked Ms. Cochran to chair a committee of the ongoing evaluation of the Executive Director as part of the board's review of this position.

B. **Executive Director** – Ms. Hart discussed the agency's organizational chart. Geraldine Mascarenas has been named Deputy Director and Debbie Dieterich has been upgraded to Senior Investigator. The overall investigation department will report to Ms. Hart. Also discussed was the procedure to contract experts utilized for investigations. Contracts will be initiated and written reports will be provided as part of the contractual terms.

C. **Medical Director** – Dr. LaFarge reviewed the Red Flag Application Report which summarizes the alerts (red flags) in the application form. Red flags are used to identify areas on the application that need to be reviewed and followed up on. Ms. Cochran discussed the process regarding questions that are answered incorrectly and the explanation process. She commended Dr. LaFarge for the amount of time and effort that goes into the review of all applications received.

D. **Assistant Attorney General** – Ms. Buzzard discussed the Motion filed by Dr. Schwartz to clarify or set aside the Agreed Order regarding his ability to consult. The Agreed Order states he may consult with other physicians, but may not consult with patients or practice medicine. This was clarified in email correspondence between his attorney and the prosecuting attorney. Dr. Kovnat **MOVED** that no action is necessary on Dr. Schwartz' Motion an Agreed Order has been entered. There is no matter pending between Dr. Schwartz and the Medical Board. **SECONDED:** Mr. Ghadimi **YES:** Dr. Kovnat, Mr. Heim, Ms. Cochran, Dr. Crespin, Dr. McRoberts, Dr. Giudice, Dr. Weiner, Mr. Ghadimi and Dr. Lauriello. **MOTION CARRIED**

E. **Administrative Prosecutor** - Mr Khalsa informed the Board that there are currently five outstanding Notices of Contemplated Action, and two of them have a hearing in two weeks. He moved to amend a Notice of Contemplated Action in regards to a 2006 case. An order was issued on this case based on a summary suspension in Alaska and the Board's Order stated that the physician could not use his license until pending action in Alaska was settled and a hearing was scheduled. His license was revoked in Alaska and now the NCA will be amended and a hearing will be scheduled.

F. **Licensing Manager** – Ms. Quintana reviewed Fiscal Year 2008 licensing measures. She reported that with the new legislative incentive since January 1st there were 91 new licensees that had taken advantage of this incentive. Also, she discussed the conflicts with the license expiration date and the hospital bylaws. One suggestion was to redraft the medical license to include their expiration date. The Board appointed Dr. LaFarge, Amanda and JJ to work on a rule revision clarifying the expiration date of the license and granting a grace period until October 1st. Ms. Quintana will report on the CME audit at the November meeting.

G. Financial / HR Manager – Ms. Mascarenas went over the statistical report and stated the revenue projections were prior to the fee increase. She reminded the board that funds not used return to the board's fund balance and not the general fund. She is working on the Appropriation Request for fiscal year 2010. The Appropriation Request includes an expansion for a classified position for a full time position for the medical director.

H. Investigation Department – The process of the initial review committee was established after the last board meeting and was tried once. The purpose was to review public complaints that came in to prevent formal investigations into cases frivolous allegations were being made. The department was unable to determine whether there was a possible violation until they received the physician's response. This process was found to take up an extensive amount of time. A new procedure has been established which will refer questionable complaints to the executive committee to determine if an investigation should be opened. All cases will either be opened by investigation or go to the executive committee for a decision to open. This process should reduce the amount of time spent on questionable cases.

I. Compliance Department / Public Information Officer – Ms. Walker provided compliance summaries for the Board's review and reported that there were no participants out of compliance.

7. LICENSING REQUESTS AND ACTIONS, NEW APPLICANTS/REINSTATEMENTS

- **Asif Farooq, MD** – Mr. Heim **MOVED** that the Board accept the AACRAO evaluation and grant a license to practice medicine. **SECONDED:** Dr. Lauriello. **YES:** Dr. Kovnat, Mr. Heim, Ms. Cochran, Dr. Crespin, Dr. McRoberts, Dr. Weiner, Dr. Giudice, Mr. Ghadimi and Dr. Lauriello. **MOTION CARRIED**
- **Asad Raza, MD** – Dr. La Farge presented Dr. Raza's AACRAO evaluation to the Board for information only. The purpose was to show the wording AACRAO uses on their reports and to distinguish between "education equivalent to an accredited US medical school" or "not equivalent to an accredited US medical school".
- **Thomas Nelius, MD** – Dr. Crespin **MOVED** that the Board accept the modified AACRAO evaluation of Dr. Nelius' post graduate training and also to grant an exception to the 7 year rule for completion of all three steps of the USMLE based on the Rules and grant him an unrestricted license. **SECONDED:** Dr. Kovnat. **YES:** Dr. Kovnat, Mr. Heim, Dr. Crespin, Dr. McRoberts, Dr. Weiner, Dr. Giudice, Mr. Ghadimi and Dr. Lauriello. **NO:** Ms. Cochran. **MOTION CARRIED**
- **Joan Lewis, MD** – Dr. Lewis and her attorney, Penny Adrian visited the board to review her case and consider setting aside the Order and re-hearing her case, 2008-003. Ms. Adrian, Dr. Lewis and GTS Khalsa addressed the board regarding the case. (A transcript of the discussion is attached.)

MOTION was made by Dr. Kovnat to go into executive session pursuant to Section 10-15-1(H)(1) of the Open Meetings Act to discuss matters of licensure and discipline. **SECONDED** Ms. Cochran. **YES:** Dr. Kovnat, Mr. Heim, Ms. Cochran, Dr. Crespin, Dr. McRoberts, Dr. Weiner, Dr. Giudice, and Dr. Lauriello. **ABSENT:** Mr. Ghadimi. **MOTION CARRIED**

The Board reconvened into 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.

8. ACTIONS RELATED TO EXECUTIVE SESSION

- Mr. Ghadimi **MOVED** to vacate the Order on Dr. Lewis and schedule a new Hearing. **SECONDED** by Dr. McRoberts. **YES:** Dr. McRoberts and Mr. Ghadimi. **NO:** Dr. Kovnat, Dr. Weiner, Dr. Crespin, Dr. Giudice, Dr. Lauriello, Mr. Heim and Ms. Cochran. **MOTION WAS DENIED**

9. **NM MONITORED TREATMENT PROGRAM REPORTS** – Jon Thayer and Dr. Dan Collins were present to discuss the status of mandatory MTP participants and review the operational and financial reports. The Board went into Executive Session to discuss the clinical portion of the MTP report.

MOTION was made by Dr. Kovnat to go into executive session pursuant to Section 10-15-1(H)(1) of the Open Meetings Act to discuss matters of licensure and discipline. **SECONDED** Ms. Cochran. **YES:** Dr. Kovnat, Mr. Heim, Ms. Cochran, Dr. Crespin, Dr. McRoberts, Dr. Giudice, and Dr. Lauriello. **ABSENT:** Dr. Weiner. **MOTION CARRIED**

The Board reconvened into 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.

10. **COMPLIANCE**

- **Board Order – Robert Graor, MD** - Motion was made by Dr. Kovnat to remove all Stipulations and grant an unrestricted license. **SECONDED:** Dr. Weiner **YES:** Dr. Kovnat, Mr. Heim, Ms. Cochran, Dr. Crespin, Dr. McRoberts, Dr. Giudice, Dr. Weiner, Mr. Ghadimi and Dr. Lauriello.
- **Board Order – Paul Levy, MD** - Motion was made by Dr. Kovnat to remove all Stipulations and grant an unrestricted license. **SECONDED:** Dr. Lauriello **YES:** Dr. Kovnat, Ms. Cochran, Dr. Crespin, Dr. McRoberts, Dr. Giudice, Dr. Weiner, Mr. Ghadimi and Dr. Lauriello. **ABSENT:** Mr. Heim **MOTION CARRIED**
- **Board Order – Paul Engstrom, MD** - Motion was made by Dr. Kovnat to deny licensee's request to be removed from probation. **SECONDED:** Dr. Weiner **YES:** Dr. Kovnat, Ms. Cochran, Dr. Crespin, Dr. McRoberts, Dr. Giudice, Dr. Weiner, Mr. Ghadimi and Dr. Lauriello. **ABSENT:** Mr. Heim **MOTION CARRIED**
- **Board Order – Jon Webb, MD** - Motion was made by Dr. Kovnat to remove all Stipulations and grant an unrestricted license pending a review of actions in other states. **SECONDED:** Dr. Weiner **YES:** Dr. Kovnat, Ms. Cochran, Dr. Crespin, Dr. McRoberts, Dr. Giudice, Dr. Weiner, Mr. Ghadimi and Dr. Lauriello. **ABSENT:** Mr. Heim **MOTION CARRIED**
- **Board Order – Alonso Pacheco, MD** - Motion was made by Dr. Kovnat to deny licensee's request to be removed from probation. **SECONDED:** Dr. Weiner **YES:** Dr. Kovnat, Ms. Cochran, Dr. Crespin, Dr. McRoberts, Dr. Giudice, Dr. Weiner, Mr. Ghadimi and Dr. Lauriello. **ABSENT:** Mr. Heim **MOTION CARRIED**

11. **INFORMAL INTERVIEWS:**

Robert Graor, MD, Jon-Paul Hamilton, MD, Jon Wagner, MD and Alonso Pacheco, MD were interviewed in Executive Session regarding current practices and compliance with the Board. Robert Orchard, MD Christopher Gallagher, MD, Johnnie Vigil, MD, Matthew Caffrey, MD, Pablo Garcia, MD, James Hartenbach, MD (by teleconference), Richard Snure, MD (by teleconference), and Virgle Herrin, MD were interviewed in open session regarding current practices and compliance with the Board.

12. **ACTIONS RELATED TO EXECUTIVE SESSION**

No action was taken at this time.

RECESS 5:30 p.m.

RECONVENE. The Board reconvened at 9:04 a.m. on Friday morning with all members present, except Mr. Heim.

13. **VISIT FROM FEDERATION OF STATE MEDICAL BOARDS** – Cheryl Vaught, Board of Director member and Lisa Robin, Senior Vice President provided an overview of the structure of the Federation and encouraged board members and staff to provide input to them regarding the services they provide. Discussion was held regarding Osteopathic physician's requirements, peer reviews and credentialing; also the status of their data center, FCVS. Ms. Robin reported the current system is being evaluated and invited input from our staff.

14. **NEW BUSINESS**

A. **Review Draft Newsletter** – Ms. Walker provided an outline of the October 2008 newsletter. Topics to be included are: introduction of Genetic Counselors licensure and Polysomnographic Technologists licensure; list of Polysomnographic Technologist Advisory Committee Members; proposed rule revisions for a November rule hearing; article on the reportability of withdrawing an application or surrendering a license; article on inappropriate writing of prescriptions for non-patients; and the standard information data. The Board requested that the newsletter be revised to emphasize the importance of reporting address changes.

B. **Proposed Rule Changes**

- **16.10.5 NMAC – Disciplinary Power of the Board** – The rule will be revised to include Genetic Counselors and Polysomnographic Technologists. Section 16 will be revised to define summary suspension as it relates to the passage of HB 177 that authorizes the Board to summarily suspend a license without a hearing if the licensee poses a clear and immediate danger to the public health and safety and clarify the hearing procedure. The Board amended the proposed revisions to replace the words “practice medicine” with “practice” throughout the entire regulation. Part 5 will be revised for presentation to the Board at the September Interim Meeting.
- **16.10.6 NMAC – Complaint Procedure & Institution of Disciplinary Action** – the rule will be revised to include Genetic Counselors and Polysomnographic Technologists. Also amend the proposed revisions to replace the words “practice medicine” with “practice” throughout the entire regulation.
- **16.10.9 NMAC – Fees** – the rule will be revised to add Section 11 to include fees for Genetic Counselors.
- **16.10.15 NMAC – Physician Assistants: Licensure & Practice Requirements** - Revise Section 8 to further clarify and define qualifications for licensure as a physician assistant.
- **16.10.17 NMAC – Management of Medical Records** – Revise the rule to include electronic medical records, a proposed increase in the charge for duplicating medical records, and revise subsection regarding closing, selling relocating or leaving a practice. Subsection B of Section 8 will be amended to charge "\$30.00 for first 15 pages and \$ 25 per page thereafter" and amend Subsection C of Section 9 to replace "shall" with "may" regarding notification of patients through newspaper advertisements.
- **16.10.22 NMAC – Genetic Counselors: Licensure & Practice Requirements** – No amendments were made to the proposed rule.

MOTION was made by Dr. Kovnat to accept the proposed revisions as amended to Part 5, Part 6 and Part 17 and accept proposed revisions to Part 9 and Part 15. Also, Part 21 as presented.

SECONDED Dr. Giudice. **YES:** Dr. Kovnat, Ms. Cochran, Dr. Crespino, Dr. McRoberts, Dr. Weiner, Dr. Giudice, Mr. Ghadimi and Dr. Lauriello. **ABSENT:** Mr. Heim. **MOTION CARRIED**

C. **Prescribing Psychologists Proposed Rule Changes** – Dr. LaFarge and Dr. Kovnat will contact the Psychologists board asking for further clarification of their proposed rule changes.

D. Establish and Appoint New Polysomnography Practice Advisory Committee – Dr
Kovnat moved to appoint Craig Eaves, RPSGT, Dominic Melendez, RPSGT, Lee Brown, MD, Judy Holcome and Grant LaFarge, MD to the Polysomnography Practice Advisory Committee (PPAC).
SECONDED: Dr. Weiner **YES:** Dr. Kovnat, Ms. Cochran, Dr. Crespin, Dr. McRoberts, Dr. Giudice, Dr. Weiner, Mr. Ghadimi and Dr. Lauriello. **ABSENT:** Mr. Heim. **MOTION CARRIED**

15. ACTIONS RELATED TO EXECUTIVE SESSION


No action was taken at this time.

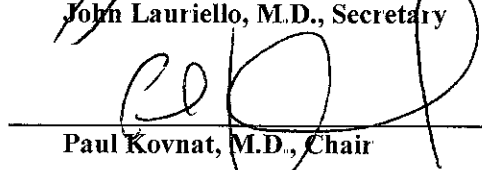
16. OLD BUSINESS – No issues were discussed

17. ADJOURN

There being no further business, the meeting adjourned at 11:50 a.m

SUBMITTED:  Date: 9/25/08
Lynn Hart, Executive Director

APPROVED:  Date: 9/25/08
John Lauriello, M.D., Secretary

APPROVED:  Date: 9/25/08
Paul Kovnat, M.D., Chair