

NEW MEXICO MEDICAL BOARD
Interim Meeting
April 7, 2011

MINUTES

Members Present:

Steven Weiner, M.D., Chairman
Rebecca Cochran, CPMSM, CPCS , Vice-Chair, Public Member – by teleconference
Paul Kovnat, M.D., Secretary Treasurer
Roger Miller, M.D.
Kathy Abeles, Public Member
Steve Jenkusky, M.D. – by teleconference until 5:00 p.m.
Ann Wehr, M.D – by teleconference
Frank Crespín, M.D. – by teleconference
Albert Bourbon, P.A. – by teleconference until 5:00 p.m.

Also Present:

Lynn Hart, Executive Director
Andrea Buzzard, Assistant Attorney General
Jerry Marshak, Administrative Prosecutor
Lynn Tipton, Administrative Assistant
JJ Walker, Compliance / Public Information Officer
Debbie Dieterich, Senior Investigator
Leann Adams, Investigator
Amanda Quintana, Licensing Manager

1. CALL TO ORDER

The interim meeting of the New Mexico Medical Board convened at 4:00 p.m., Thursday, April 7, 2011 in the Board Conference Room, 2055 S. Pacheco, Santa Fe, New Mexico, **Steve Weiner, M.D.** presiding. A quorum was declared.

2. APPROVAL OF AGENDA

Ms. Abeles **MOVED** to approve the agenda. Dr. Crespín **SECONDED**: **YES**: Dr. Weiner, Dr. Miller, Ms. Abeles, Dr. Kovnat, Mr. Bourbon, Ms. Cochran, Dr. Crespín, Dr. Jenkusky and Dr. Wehr. **MOTION CARRIED.**

3. APPROVE MINUTES

Dr. Wehr **MOVED** to approve the minutes of the February 17-18, 2011 Quarterly Board meeting. Dr. Weiner **SECONDED**. **YES**: Dr. Weiner, Dr. Miller, Ms. Abeles, Dr. Kovnat, Mr. Bourbon, Ms. Cochran, Dr. Crespín, Dr. Jenkusky and Dr. Wehr. **MOTION CARRIED.**

4. CHAIR REPORT – No report was given at this time.

5. EXECUTIVE DIRECTOR – 2011 LEGISLATIVE SESSION - Ms. Hart provided an overview of the following bills:

- **SB101 Responses to Medical Board Subpoenas – SB 101 amends the Review Organization Immunity Act to require health care review organizations to respond**

to Board subpoenas to obtain peer review records. SB 101 was on the Governor's desk to be signed and subsequent to this meeting; the Governor did sign this bill.

- **HB107** Naprapathic Board Duties to Medical Board – HB 107 was signed by the Governor. This bill transfers the function and duties of the Naprapathic Practice Board to the Medical Board and creates a task force that would advise the Medical Board regarding licensure of Naprapaths. Dr. Nuzzo will be invited to attend the May Board Meeting for further discussion.
- **SB333** Amend Medical Malpractice Act and Duplicate Bill HB267 – SB 333 and HB 267 are duplicate bills that would amend the Medical Malpractice Act to define “business entity” and “health care provider” in order to clarify that business entities are included as health care providers under the Act. Both bills were vetoed by the Governor.

Executive Session: **MOTION** was made by Dr. Weiner and **SECONDED** by Dr. Kovnat to go into executive session to discuss matters of licensure and discipline. **YES:** Dr. Weiner, Dr. Miller, Ms. Abeles, Dr. Kovnat, Mr. Bourbon, Ms. Cochran, Dr. Crespin, Dr. Jenkusky and Dr. Wehr. **MOTION CARRIED.**

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

6. LICENSING REQUESTS AND ACTIONS, NEW APPLICANTS/REINSTATEMENTS:

- **John Fancher, M.D. – Consider UNM Mini-sabbatical report and issuance of medical license**
MOTION was made by Dr. Weiner to **ACCEPT** UNM's report and **GRANT** Dr. Fancher an unrestricted license to practice medicine in New Mexico. **YES:** Dr. Weiner, Dr. Miller, Ms. Abeles, Dr. Kovnat, Mr. Bourbon, Ms. Cochran, Dr. Crespin, Dr. Jenkusky and Dr. Wehr. **MOTION CARRIED.**
- **Douglas Krell, M.D. – Consider Settlement – Case No. 2011-001**
MOTION was made by Dr. Weiner to **APPROVE** the Stipulated Agreement and proposed Letter of Reprimand as presented and **ISSUE** a formal Letter of Reprimand. **SECONDED** by Dr. Miller. **YES:** Dr. Weiner, Dr. Miller, Dr. Kovnat, Mr. Bourbon, Ms. Cochran, Dr. Jenkusky and Dr. Wehr. **RECUSED:** Dr. Crespin and Ms. Abeles **MOTION CARRIED.**
- **Decision and Order – Joseph Dambrauskas, M.D.**
MOTION was made by Dr. Kovnat to **ADOPT** the Hearing Officer's Report in its entirety and in the Conclusion of Law the Board did not find sufficient evidence to conclude that there was a violation of the Medical Practice Act as alleged in the Notice of Contemplated Action. An **ORDER** of dismissal will be issued with a recommendation to Dr. Dambrauskas that he complete ten hours of continuing medical education courses in the area of boundaries. **SECONDED** by Dr. Weiner. **YES:** Dr. Weiner, Ms. Abeles, Dr. Kovnat, Mr. Bourbon, Dr. Crespin, Dr. Jenkusky and Dr. Wehr. **RECUSED:** Dr. Miller and Ms. Cochran. **MOTION CARRIED.**

At 5:00 p.m., prior to Executive Session to discuss the Decision and Order in the case of Dr. Kenneth Bull, Dr. Jenkusky and Mr. Bourbon disconnected from the conference call as they were recused from the case.

Executive Session: MOTION was made by Dr. Weiner and **SECONDED** by Dr. Kovnat to go into executive session to discuss matters of licensure and discipline. **YES:** Dr. Weiner, Dr. Miller, Ms. Abeles, Dr. Kovnat, Ms. Cochran, Dr. Crespín, and Dr. Wehr. **MOTION CARRIED.**

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

- **Decision and Order – Kenneth Bull, M.D.**
MOTION was made by Dr. Weiner to **ADOPT** the Hearing Officer's Report with additional findings. It is the Board's decision that Dr. Bull violated the Medical Practice Act by injudiciously prescribing and by his failure to maintain adequate, legible and complete medical records. It is the intent of the Board that Dr. Bull be placed on probation until further order of the Board. Dr. Bull will be allowed to practice medicine in Psychiatry subject to the following conditions. Dr. Bull may not prescribe narcotics, including but not limited to, all opioid analgesics including Buprenorphine and all synthetic opioid analgesics. Dr. Bull will be prohibited from treating patients for chronic pain. Dr. Bull must alter his medical record keeping practice in accordance with accepted practices and must appear in front of the Board on a quarterly basis. **SECONDED** by Dr. Kovnat. **YES:** Dr. Weiner, Dr. Miller, Ms. Abeles, Dr. Kovnat, Ms. Cochran, Dr. Crespín and Dr. Wehr. **ABSENT:** Dr. Jenkusky and Mr. Bourbon **MOTION CARRIED.**
- **Default Hearing – Loir Kahane, M.D.**
MOTION was made by Dr. Weiner to accept the Prosecutor's Order to **DENY** the application of Dr. Kahane based on licensure action being taken against him by other state licensing boards. **SECONDED** by Ms. Abeles. **YES:** Dr. Weiner, Dr. Miller, Ms. Abeles, Mr. Bourbon, Ms. Cochran, Dr. Crespín and Dr. Jenkusky. **MOTION CARRIED. RECUSED:** Dr. Wehr and Dr. Kovnat. **MOTION CARRIED.**

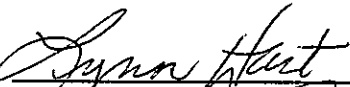
7. INVESTIGATIONS

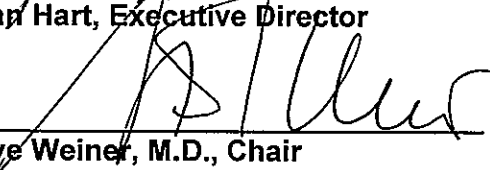
- **Complaint Committee D:**
Case No. 2010-D-239 **RECOMMENDATION** was made by Dr. Jenkusky to close this case as there was no evidence of a violation of the Medical Practice Act or rules. **YES:** Dr. Weiner, Dr. Miller, Ms. Abeles, Dr. Kovnat, Ms. Cochran, Dr. Crespín and Dr. Wehr. **ABSTAINED:** Mr. Bourbon and Dr. Jenkusky. **RECOMMENDATION PASSED.**

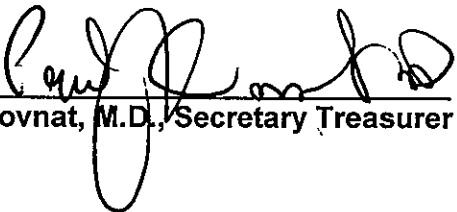
Case Nos. 2010-D-076; 2010-D-127; 2010-D-184 and 2010-D-240
(██████████) **RECOMMENDATION** was made by Dr. Jenkusky to issue a Notice of Contemplated Action based on, but not limited to, injudicious prescribing and failure to maintain adequate, legible and complete medical records on patients. **YES:** Dr. Weiner, Dr. Miller, Ms. Abeles, Dr. Kovnat, Ms. Cochran, Dr. Crespín and Dr. Wehr. **ABSTAINED:** Mr. Bourbon and Dr. Jenkusky. **RECOMMENDATION PASSED.**

Case No. 2010-D-241 ([REDACTED]) RECOMMENDATION was made by Dr. Jenkusky to issue a Notice of Contemplated Action based on, but not limited to, injudicious prescribing and failure to maintain adequate, legible and complete medical records on patients. This case will remain open pending an Impaired Physician Committee Report. **YES:** Dr. Weiner, Dr. Miller, Ms. Abeles, Dr. Kovnat, Ms. Cochran, Dr. Crespin and Dr. Wehr. **ABSTAINED:** Mr. Bourbon and Dr. Jenkusky. **RECOMMENDATION PASSED.**

8. **ADJOURN:** There being no further business, the meeting adjourned at 5:56 p.m.

SUBMITTED BY:  DATE: 5/19/11
Lynn Hart, Executive Director

APPROVED BY:  DATE: 5/19/2011
Steve Weiner, M.D., Chair

 DATE: 5/19/2011
Paul Kovnat, M.D., Secretary Treasurer