

**NEW MEXICO MEDICAL BOARD  
First Quarter Meeting  
February 23 – 24, 2012**

**MINUTES**

**Members Present:** Steve Weiner, M.D., Chair  
Rebecca Cochran, CPMSM, CPCS, Vice Chair, Public Member  
Paul Kovnat, M.D., Secretary Treasurer  
Roger Miller, M.D.  
Steve Jenkusky, M.D.  
Sam Kankanala, M.D.  
Steven Komadina, M.D. (by teleconference)

**Members Absent:** Albert Bourbon, PA-C

**Others Present:** Lynn Hart, Executive Director  
Grant La Farge, M.D., Medical Director  
Andrea Buzzard, Assistant Attorney General  
McKenzie Bryson, Administrative  
J.J. Walker, Compliance Manager / PIO  
Gayle Mascarenas, CFO / HR  
Lynn Tipton, Administrative Assistant  
Debbie Dieterich, Senior Investigator  
Leann Adams, Investigator  
Amanda Chavez, Investigator  
Amanda Quintana, Licensing Manager

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

1. **CALL TO ORDER / ROLL CALL / INTRODUCTIONS:**  
Dr. Weiner called the regular meeting of the New Mexico Medical Board to order at 8:30 a.m., and a quorum was present.
2. **APPROVAL OF AGENDA:**  
**MOTION** was made by Dr. Weiner to approve the agenda. **SECONDED** by Dr. Kovnat. **YES:** Ms. Cochran, Dr. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller and Dr. Weiner. **ABSENT:** Dr. Komadina **MOTION CARRIED.**
3. **APPROVAL OF MINUTES:**  
**MOTION** was made by Dr. Weiner to approve the Minutes from the January 5, 2012 Interim Meeting. **SECONDED** by Ms. Cochran. **YES:** Ms. Cochran, Dr. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller and Dr. Weiner. **ABSENT:** Dr. Komadina **MOTION CARRIED.**

**EXECUTIVE SESSION:**

**MOTION** was made by Dr. Weiner 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. Jenkusky. **YES:** Ms. Cochran, Dr. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller and Dr. Weiner. **ABSENT:** Dr. Komadina **MOTION CARRIED.**

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

**4. COMPLAINT COMMITTEE REPORTS:**

**A. Licensees and Applicants**

**Complaint Committee A:**

**RECOMMENDATION** was made by Dr. Kovnat to close complaint cases 2010-A-165; 2010-A-166; 2010-A-167; 2010-A-195; 2010-A-213; 2010-A-217; 2010-A-223; 2010-A-228; 2010-A-238; 2010-A-247; 2011-A-063; 2011-A-169 and 2011-A-197, as there was no evidence of a violation of the Medical Practice Act or rules. **YES:** Ms. Cochran, Dr. Kankanala, Dr. Jenkusky, Dr. Miller, and Dr. Weiner. **ABSTAINED:** Dr. Kovnat and Dr. Komadina. **RECOMMENDATION PASSED.**

**Case No. 2011-A-071 RECOMMENDATION** was made by Dr. Kovnat to close this case and to issue physician an advisory letter regarding patient communications, particularly the number of patient consultation visits. The Board will continue to watch the pattern on patient care complaints. **YES:** Ms. Cochran, Dr. Kankanala, Dr. Jenkusky, Dr. Miller, and Dr. Weiner. **ABSTAINED:** Dr. Kovnat and Dr. Komadina. **RECOMMENDATION PASSED.**

**Case No. 2011-A-077 ( [REDACTED] ) RECOMMENDATION** was made by Dr. Kovnat to issue a Notice of Contemplated Action based on, but not limited to, injudicious prescribing. **YES:** Ms. Cochran, Dr. Kankanala, Dr. Jenkusky, Dr. Miller, and Dr. Weiner. **ABSTAINED:** Dr. Kovnat and Dr. Komadina. **RECOMMENDATION PASSED.**

**Case No. 2011-A-157 ( [REDACTED] ) RECOMMENDATION** was made by Dr. Kovnat to offer the Polysomnographic Technologist a stipulated license requiring mandatory participation in NM Monitored Treatment Program and other standard substance abuse stipulations and worksite monitoring. If he does not accept, recommend issuance of a Notice of Contemplated Action based on, but not limited to, habitual and excessive use of alcohol. **YES:** Ms. Cochran, Dr. Kankanala, Dr. Jenkusky, Dr. Miller, and Dr. Weiner. **ABSTAINED:** Dr. Kovnat and Dr. Komadina. **RECOMMENDATION PASSED.**

**Complaint Committee B:**

**RECOMMENDATION** was made by Ms. Cochran to close complaint cases 2010-B-163; 2010-B-175; 2010-B-193; 2010-B-214; 2010-B-218; 2010-B-229; 2010-B-244; 2010-B-250; 2010-B-255; 2010-B-260; 2010-B-270; 2011-B-185 and 2011-B-219 as there was no evidence of a violation of the Medical Practice Act or rules. **YES:** Dr. Kovnat, Dr. Kankanala, Dr. Jenkusky, Dr. Komadina and Dr. Weiner. **ABSTAINED:** Ms. Cochran and Dr. Miller. **RECOMMENDATION PASSED.**

**Case No. 2010-B-124 RECOMMENDATION** was made by Ms. Cochran to close this case and to issue physician an advisory letter regarding appropriate medical record charting on procedures, measurements and necessary photos of patients.

**Case No. 2010-B-179 RECOMMENDATION** was made by Ms. Cochran to close this case and to issue physician an advisory letter regarding appropriate medical record charting on procedures being performed.

**Case No. 2010-B-189 RECOMMENDATION** was made by Ms. Cochran to close this case and to issue physician an advisory letter regarding appropriate medical record charting on procedures being performed.

**Case No. 2010-B-234 RECOMMENDATION** was made by Ms. Cochran to close this case and to issue physician an advisory letter regarding reviewing patient information prior to treating and prescribing.

**Case No. 2011-B-086 RECOMMENDATION** was made by Ms. Cochran to close this case and to issue physician an advisory letter regarding reporting requirements.

**Case No. 2011-B-205 RECOMMENDATION** was made by Ms. Cochran to close this case and to issue physician an advisory letter regarding reporting and warning him that the basis for his Utah action is also a violation of the New Mexico Medical Practice Act.

**MOTION** was made to close these cases and issue advisory letters. **Yes: Dr. Kovnat, Dr. Kankanala, Dr. Jenkusky, Dr. Komadina and Dr. Weiner. ABSTAINED: Ms. Cochran and Dr. Miller. RECOMMENDATION PASSED.**

**Case No. 2011-B-220 ( [REDACTED] ) RECOMMENDATION** was made by Ms. Cochran to offer physician a pre-NCA settlement agreement that would add a provision to his Board Order that would require patients who need controlled substance prescriptions to be referred to another doctor. If Physician does not accept pre-NCA settlement agreement, a Notice of Contemplated Action will be issued based on, but not limited to, violating a Board Order. **YES: Dr. Kovnat, Dr. Kankanala, Dr. Jenkusky, Dr. Komadina and Dr. Weiner. ABSTAINED: Ms. Cochran and Dr. Miller. RECOMMENDATION PASSED.**

**Case No. 2011-B-137 (Julie DiCianno, MD) RECOMMENDATION** was made by Ms. Cochran to accept the recommendations of the Impaired Physician Committee in their entirety and offer physician an Agreed Order outlining the same. **YES: Dr. Kovnat, Dr. Kankanala, Dr. Jenkusky, Dr. Komadina and Dr. Weiner. ABSTAINED: Ms. Cochran and Dr. Miller. RECOMMENDATION PASSED.**

**Case No. 2011-B-167 (Patrick Clyne, MD) RECOMMENDATION** was made by Ms. Cochran to issue a Notice of Contemplated Action to deny licensure based on, but not limited to, misrepresentation on his application for a New Mexico license. **YES: Dr. Kovnat, Dr. Kankanala, Dr. Jenkusky, Dr. Komadina and Dr. Weiner. ABSTAINED: Ms. Cochran and Dr. Miller. RECOMMENDATION PASSED.**

**Case No. 2011-B-204 (David Stalker, MD) RECOMMENDATION** was made by Ms. Cochran to offer physician a stipulated license requiring mandatory participation in NM Monitored Treatment Program and other standard substance abuse stipulations and worksite monitoring. If physician does not accept the stipulated license, a Notice of Contemplated Action will be issued based on, but not limited to, habitual or excessive use of alcohol. **YES: Dr. Kovnat, Dr. Kankanala, Dr. Jenkusky, Dr. Komadina and Dr. Weiner. ABSTAINED: Ms. Cochran and Dr. Miller. RECOMMENDATION PASSED.**

**RECOMMENDATION** was also made by Ms. Cochran to send hospital a letter notifying them of their violation for failing to report the adverse action taken on physician's privileges, that the violation has been reported to the National Practitioner Data Bank. A Notice of Contemplated Action will be issued based on, but not limited to, failure to report. **YES: Dr. Kovnat, Dr. Kankanala, Dr. Jenkusky, Dr. Komadina and Dr. Weiner. ABSTAINED: Ms. Cochran and Dr. Miller. RECOMMENDATION PASSED.**

**Case No. 2012-B-010 ( [REDACTED] ) RECOMMENDATION** was made by Ms. Cochran to offer physician the opportunity to withdraw his application for licensure in New Mexico while under investigation. If physician does not accept the offer, the committee recommends issuance of a Notice of Contemplated Action based on, but not limited to, incompetency. **YES: Dr. Kovnat, Dr. Kankanala, Dr. Jenkusky, Dr. Komadina and Dr. Weiner. ABSTAINED: Ms. Cochran and Dr. Miller. RECOMMENDATION PASSED.**

**Complaint Committee C:**

**RECOMMENDATION** was made by Dr. Kankanala to close complaint case 2010-C-150, 2010-C-186, 2010-C-190; 2010-C-191; 2010-C-203; 2010-C-212; 2010-C-230; 2010-C-235; 2010-C-257;

2010-C-261; 2010-C-275; 2011-C-030 and 2011-C-036 as there was no evidence of a violation of the Medical Practice Act or rules. **YES:** Dr. Kovnat, Dr. Miller, Dr. Jenkusky, Dr. Komadina, Dr. Weiner and Ms. Cochran. **ABSTAINED:** Dr. Kankanala. **RECOMMENDATION PASSED.**

**Case No. 2010-C-145 RECOMMENDATION** was made by Dr. Kankanala to close this case and to issue physician an advisory letter regarding better patient communications.

**Case No. 2010-C-219 RECOMMENDATION** was made by Dr. Kankanala to close this case and to issue physician an advisory letter regarding the patient's physical exam progress note not containing enough information and reminding physician of proper charting.

**MOTION** was made to close these cases and issue advisory letters. **YES:** Dr. Kovnat, Dr. Miller, Dr. Jenkusky, Dr. Komadina, Dr. Weiner and Ms. Cochran. **ABSTAINED:** Dr. Kankanala. **RECOMMENDATION PASSED.**

**Case No. 2011-C-239 (James Bradley, MD) RECOMMENDATION** was made by Dr. Kankanala to offer physician a stipulated license requiring mandatory participation in NM Monitored Treatment Program, including a requirement to place his medical license on inactive status until both the Board and MTP have cleared him to work. If physician does not accept the stipulated license, a Notice of Contemplated Action will be issued based on, but not limited to, habitual or excessive use of alcohol, along with possible summary suspension. **YES:** Dr. Kovnat, Dr. Miller, Dr. Jenkusky, Dr. Komadina, Dr. Weiner and Ms. Cochran. **ABSTAINED:** Dr. Kankanala. **RECOMMENDATION PASSED.**

**Complaint Committee D:**

**RECOMMENDATION** was made by Dr. Jenkusky to close complaint cases 2010-D-220; 2010-D-226; 2010-D-232; 2010-D-236; 2010-D-237; 2011-D-006; 2011-D-053; 2011-D-094; 2011-D-184 and 2011-D-226 as there was no evidence of a violation of the Medical Practice Act or rules.

**YES:** Dr. Miller, Dr. Komadina, Dr. Weiner, Ms. Cochran, Dr. Kankanala and Dr. Kovnat.

**ABSTAINED:** Dr. Jenkusky. **RECOMMENDATION PASSED.**

**Case No. 2011-D-076 RECOMMENDATION** was made by Dr. Jenkusky to close this case and to issue the physician an advisory letter regarding the prescribing of controlled substances to patients who may be doctor shopping and reminding physician that he is expected to use the Prescription Monitoring Program (PMP) prior to prescribing.

**Case No. 2011-D-213** was made by Dr. Jenkusky to close this case and to issue the physician an advisory letter regarding prescribing of Benzodiazepines to a patient abusing alcohol.

**MOTION** was made to close these cases and issue advisory letters. **YES:** Dr. Miller, Dr. Komadina, Dr. Weiner, Ms. Cochran, Dr. Kankanala and Dr. Kovnat. **ABSTAINED:** Dr. Jenkusky. **RECOMMENDATION PASSED.**

**Case No. 2011-D-095 ( [REDACTED] ) RECOMMENDATION** was made by Dr. Jenkusky to issue a Notice of Contemplated Action based on, but not limited to, injudicious prescribing, ethics violation for prescribing to self and family members, and failure to maintain accurate and complete medical records. **YES:** Dr. Miller, Dr. Komadina, Dr. Weiner, Ms. Cochran, Dr. Kankanala and Dr. Kovnat. **ABSTAINED:** Dr. Jenkusky. **RECOMMENDATION PASSED.**

**Case Nos. 2011-D-114; 2011-D-156; 2011-D-163 and 2011-D-216 ( [REDACTED] ) RECOMMENDATION** was made by Dr. Jenkusky to issue a Notice of Contemplated Action based on, but not limited to, injudicious prescribing, failure to maintain accurate, adequate and complete medical records, and conduct likely to harm the public. **YES:** Dr. Miller, Dr. Komadina, Dr. Weiner, Ms. Cochran, Dr. Kankanala and Dr. Kovnat. **ABSTAINED:** Dr. Jenkusky. **RECOMMENDATION PASSED.**

**Case No. 2011-D-136 ( [REDACTED] ) RECOMMENDATION** was made by Dr. Jenkusky to offer physician applicant the opportunity to withdraw his application for licensure in New Mexico while under investigation. If physician does not accept the offer, the committee recommends issuance of a Notice of Contemplated Action based on, but not limited to, habitual use of alcohol and substances and failure to provide the board with information requested by the board. **YES:** Dr. Miller, Dr. Komadina, Dr. Weiner, Ms. Cochran, Dr. Kankanala and Dr. Kovnat. **ABSTAINED:** Dr. Jenkusky. **RECOMMENDATION PASSED.**

**Case No. 2011-D-170 ( [REDACTED] ) RECOMMENDATION** was made by Dr. Jenkusky that physician be ordered to undergo an IPC evaluation under the Impaired Healthcare Provider Act. This case will remain open until receipt of the final report and will then return to the Board for final disposition. **YES:** Dr. Miller, Dr. Komadina, Dr. Weiner, Ms. Cochran, Dr. Kankanala and Dr. Kovnat. **ABSTAINED:** Dr. Jenkusky. **RECOMMENDATION PASSED.**

**Case Nos. 2011-D-180 and 2011-D-232 ( [REDACTED] ) RECOMMENDATION** was made by Dr. Jenkusky to issue a Notice of Contemplated Action based on, but not limited to, injudicious prescribing, failure to maintain adequate, accurate and complete medical records, and conduct likely to harm the public. **YES:** Dr. Miller, Dr. Komadina, Dr. Weiner, Ms. Cochran, Dr. Kankanala and Dr. Kovnat. **ABSTAINED:** Dr. Jenkusky. **RECOMMENDATION PASSED.**

**Case No. 2011-D-195 ( [REDACTED] ) RECOMMENDATION** was made by Dr. Jenkusky to offer physician Resident an Agreed Order that she not reapply for licensure in New Mexico in the future and if she does, she will waive the statute of imitations on this case. This is reportable to the National Practitioners Data Bank. If she does not accept, recommend issuance of a Notice of Contemplated Action, based on, but not limited to, habitual use of substances, and conduct unbecoming. **YES:** Dr. Miller, Dr. Komadina, Dr. Weiner, Ms. Cochran, Dr. Kankanala and Dr. Kovnat. **ABSTAINED:** Dr. Jenkusky. **RECOMMENDATION PASSED.**

**Case No. 2011-D-196 ( [REDACTED] ). RECOMMENDATION** was made by Dr. Jenkusky to offer physician a letter of reprimand based on, but not limited to, injudicious prescribing, ethics violation for treating family members, and failure to maintain accurate and complete medical records. If physician refuses offer, complaint committee recommends issuance of a Notice of Contemplated Action based on same. **YES:** Dr. Miller, Dr. Komadina, Dr. Weiner, Ms. Cochran, Dr. Kankanala and Dr. Kovnat. **ABSTAINED:** Dr. Jenkusky. **RECOMMENDATION PASSED.**

**Case No. 2011-D-214 ( [REDACTED] ). RECOMMENDATION** was made by Dr. Jenkusky to offer physician a letter of reprimand and requiring physician to complete a boundaries course within six months, based on, but not limited to, interaction with patients that adversely impacts the quality of care rendered to a patient and conduct unbecoming. If physician refuses offer, complaint committee recommends issuance of a Notice of Contemplated Action based on same. **YES:** Dr. Miller, Dr. Komadina, Dr. Weiner, Ms. Cochran, Dr. Kankanala and Dr. Kovnat. **ABSTAINED:** Dr. Jenkusky. **RECOMMENDATION PASSED.**

**Case No. 2011-D-241 ( [REDACTED] ). RECOMMENDATION** was made by Dr. Jenkusky to offer physician a letter of reprimand and require physician to take a boundaries course, based on, but not limited to, sexual contact with a patient. If physician refuses offer, complaint committee recommends issuance of a Notice of Contemplated Action based on same. **YES:** Dr. Miller, Dr. Komadina, Dr. Weiner, Ms. Cochran, Dr. Kankanala and Dr. Kovnat. **ABSTAINED:** Dr. Jenkusky. **RECOMMENDATION PASSED.**

**Case No. 2012-D-005 ( [REDACTED] ) RECOMMENDATION** was made by Dr. Jenkusky that physician be ordered to undergo an IPC evaluation under the Impaired Healthcare Provider Act. This case will remain open until receipt of the final report and will then return to the Board for final determination. Alternatively, physician may voluntarily surrender her license while under investigation until the outcome of her criminal case, which is reportable to the databanks. **YES:** Dr. Miller, Dr. Komadina, Dr. Weiner, Ms. Cochran, Dr. Kankanala and Dr. Kovnat. **ABSTAINED:** Dr. Jenkusky. **RECOMMENDATION PASSED.**

**Complaint Committee E:**

**RECOMMENDATION** is made by Dr. Weiner to close case 2010-E-170 as there was no evidence of a violation of the Medical Practice Act or rules. **YES:** Ms. Cochran, Dr. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller and Dr. Komadina. **ABSTAINED:** Dr. Weiner **RECOMMENDATION PASSED.**

**Case No. 2011-E-235 RECOMMENDATION** was made by Dr. Weiner to close this case and to issue physician an advisory letter regarding prescribing to a patient when there is no established physician/patient relationship; including prescribing over the internet and prescribing to a patient who is doctor shopping and Board's expectation to use the Prescription Monitoring Program (PMP). **YES:** Ms. Cochran, Dr. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller and Dr. Komadina. **ABSTAINED:** Dr. Weiner. **RECOMMENDATION PASSED.**

**Case No. 2011-E-165 RECOMMENDATION** was made by Dr. Weiner to transfer this case to legal so it can be reviewed by an expert for further investigation and litigation decisions. This case will return to the Board at the Interim Meeting in April. **YES:** Ms. Cochran, Dr. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller and Dr. Komadina. **ABSTAINED:** Dr. Weiner. **RECOMMENDATION PASSED.**

**Case No. 2011-E-218 ( [REDACTED] ) RECOMMENDATION** was made by Dr. Weiner to issue a Notice of Contemplated Action based on, but not limited to, injudicious prescribing and violation of ethics regulation for treating self and family members. **YES:** Ms. Cochran, Dr. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller and Dr. Komadina. **ABSTAINED:** Dr. Weiner. **RECOMMENDATION PASSED.**

**B. Executive Committee Report**

• Criminal History Hits

The Board reviewed the reports on criminal background arrest records compiled by the Executive Committee in executive session. The Executive Committee members are Dr. Weiner, Ms. Cochran and Lynn Hart.

• Other Cases

The Board reviewed the reports on other cases compiled by the Executive Committee in executive session. The Executive Committee members are Dr. Weiner, Ms. Cochran and Lynn Hart.

**MOTION** was made by Dr. Weiner to accept the Executive Committee's recommendations, as reported, on criminal background arrest records and other cases. **SECONDED** by Dr. Jenkusky. **YES:** Ms. Cochran, Dr. Kankanala, Dr. Kovnat, Dr. Miller, Dr. Jenkusky, Dr. Komadina and Dr. Weiner. **RECOMMENDATION PASSED.**

**5. ACTIONS RELATED TO EXECUTIVE SESSION –**

Complaints, Licensing Requests and Actions, New Applicants / Reinstatements were discussed in closed session

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

- **Distinction Between Administrative Practice and Clinical Practice**  
The Board discussed three options: 1) to ask the legislature to amend the Medical Practice Act to allow the Board to offer an "Administrative Medicine" license; 2) continue to offer an applicant who has not practiced clinical medicine for over two years and who wants to only practice "Administrative Medicine" in NM a non-disciplinary stipulated license to only practice administrative, non-clinical, medicine which is reportable to the national data banks; 3) require all applicants to meet all the qualifications for an unrestricted license regardless of the intent to practice "Administrative Non-Clinical Medicine." The Board also reviewed what other state medical boards are doing. After the discussion, the Board decided to continue to offer a non-disciplinary stipulation; if the applicant does not accept, proof of competency is required along with any additional training deemed necessary to be granted an unrestricted license.
- **Zaman Javaheri, M.D. – Consider request for exception to 7 year rule**  
**MOTION** was made by Dr. Weiner that Dr. Javaheri undergo an evaluation to confirm his claim that his lack of compliance with New Mexico's 7-year rule may be diagnosed as an inability to take exams like the USMLE exams. The documentation from the evaluation needs to be sent to the board prior to approval of a New Mexico license. **SECONDED** by Ms. Cochran. **YES:** Dr. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Weiner and Ms. Cochran. **NO:** Dr. Komadina and Dr. Miller. **RECOMMENDATION PASSED.**
- **Default Hearing – Ramiro De Los Santos, M.D. – Case No. 2011-044**  
**MOTION** was made by Dr. Weiner to accept Exhibits 1 through 9 into evidence as presented in the default hearing. Exhibit 9 is sealed. **SECONDED** by Ms. Cochran. **YES:** Dr. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller, Dr. Komadina, Dr. Weiner and Ms. Cochran. **RECOMMENDATION PASSED.**  
**MOTION** was made by Dr. Weiner to accept the Prosecutor's Order to **REVOKE** the resident application of Dr. De Los Santos based on evidence presented in the default hearing. **SECONDED** by Ms. Cochran. **YES:** Dr. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller, Dr. Komadina, Dr. Weiner and Ms. Cochran. **RECOMMENDATION PASSED.**

## 7. REPORTS

- A. **Chair – Consider rescheduling 4<sup>th</sup> Quarter Board Meeting (November 15 - 16, 2012)**  
Dr. Weiner **MOVED** to reschedule the 4<sup>th</sup> Quarter Meeting to November 8 - 9, 2012. **SECONDED** by Ms. Cochran. **YES:** Dr. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller, Dr. Komadina, Dr. Weiner and Ms. Cochran. **RECOMMENDATION PASSED.**
- B. **Executive Director - Lynn Hart, Executive Director, reported on proposed legislation that may impact the Medical Board.**
  - **FSMB Attendees (April 26<sup>th</sup>, 27<sup>th</sup> and 28<sup>th</sup> – Fort Worth, Texas) – Ms. Cochran, Lynn Hart and Dr. La Farge will be attending the Federation meeting. Dr. Weiner **MOVED** to appoint Ms. Cochran to act as the voting member representing the Board. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller, Dr. Komadina, Dr. Weiner and Ms. Cochran. **RECOMMENDATION PASSED.****
  - **2012 Telemedicine and License Portability Workshop – Dr. Kovnat will attend the workshop this year on behalf of the Board.**

- **2012 Legislative Session**

- **SB 158 – Prescription Drug Monitoring Program**

- Senate Bill 158 required the Board of Pharmacy to establish and monitor a prescription drug monitoring program. This bill would have added additional dispensers and required dispensers to submit information to the Prescription Monitoring Program within 24 hours. Doctors that dispense would have had to set up a mechanism to report within 24 hours. The Pharmacy Board is planning to amend some of their rules and did receive funding to upgrade their systems and hire staff. This bill did not pass.

- **SB 159 – Prescription Opioid Medications**

- The focus of this bill was to limit prescription refills and require the practitioner to review the Prescription Monitoring Program (PMP) before treating a patient with an opioid medication for 30 days. This bill would have required prescribing physicians to obtain documented, informed consent for a 1<sup>st</sup> prescription of opioid medications. The amended version created an Opioid Medication Prescribing Limits Council and allowed the Medical Board and other healthcare boards to consider recommendations of that Council in promulgating rules for prescribing opioid medications. This bill did not pass.

- **SB 215 – Pain Management Advisory Council Changes**

- Senate Bill 215 – amending the Pain Relief Act did pass and was signed by the Governor. This bill adds additional members to the Advisory Council. The Department of Health has not called a meeting as of yet for the Council to meet. The council will help licensing boards in reviewing pain management guidelines and rules. The other element of SB 215 is that it will now require CME in pain management. Nowhere does the bill require the amount of CME only that the Advisory Council would recommend the actual amount of CME for each board. SB 215 goes into effect on May 16, 2012, and the Medical Board will propose requirements for obtaining the necessary CME in pain management at its May quarterly meeting.

- **HB 34 – Rulemaking Requirements** - This bill did not pass.

- **HB 35 – Public Meeting Agendas 72 Hours Prior** – This bill did not pass.

C. **Medical Director** – No report at this time.

D. **Licensing Manager**

- **Consider licensure expiration of July 1 and eliminating grace period –**

- In response to the Board's request, Ms. Quintana provided the Board with information from other state licensing boards regarding allowing a grace period at the time of license renewal. She advised the Board that any rule revisions to eliminate the grace period would require a rule hearing. Ms. Quintana recommended keeping the grace period for payment and renewal only until October 1<sup>st</sup> of the current renewal year, however the physician would not be allowed to practice during the grace period. This change in process was discussed, and Ms. Quintana stated that staff would not be able to implement the change until the 2013 renewal cycle, but could educate the licensees over the next year about the amended rules. Ms. Buzzard stated that the statute §61-6-26 says we cannot currently suspend a license until September 30<sup>th</sup>. Staff will review the statute and consider proposing statutory amendments during the 2013 legislative session.

- The Board also discussed the need to educate licensees about the requirement to provide the Board with their current mailing address to ensure they receive a renewal notification.

- **Information regarding Health Care Practitioner Survey set forth by SB14 –**

- Ms. Quintana informed the Board that SB14 Healthcare Workforce Data Collection, passed during the 2011 legislative session requiring that all healthcare boards survey licensees upon renewal and application. A committee was formed to put together a



survey which almost exactly mimics the survey we have been issuing over the last three years except for a couple of additional questions. It was given to the Board for review and the new survey will start this renewal cycle.

SB 14 directs the Department of Health (DOH) to collect and analyze the data. At this time, the DOH does not have the resources for the analysis and HB 19 was introduced to move the data collection, analysis and storage of the data from the DOH to the University of New Mexico. HB 19 passed and was signed by the Governor.

**E. Administrative Prosecutor**

- **NCA Status Report** - Ms. Bryson reviewed the status of cases regarding recommendations the board voted on.
- **Update on Chiropractic Appeal** – Ms. Bryson informed the Board that the Court-ordered mediation is scheduled for Monday, February 27<sup>th</sup>. The participants include the Medical, Pharmacy and Chiropractic Boards, and the International Chiropractic Association. The Motion to Stay the implementation of the proposed Advanced Chiropractic formulary was granted last week. The Court Order also states that during the mediation process if all three Boards agree on a particular drug and route of administration then it can be allowed for use and would not have to wait for the entire formulary to be approved by the three boards. Dr. Weiner, on behalf of the Medical Board, directed Ms. Bryson that the formulary cannot be mediated. Only the full Medical Board can approve any part or all of the formulary. It is the understanding of all of the Members of the Medical Board that the only issue currently in mediation is whether or not the Chiropractic Board has the statutory authority to adopt a formulary as it did on August 30, 2011, without the approval of the Medical Board and the Pharmacy Board.
- **Consider Dismissal of Case No. 2011-020 – Aida Figueroa, M.D.** – Ms. Bryson requested that the current Notice of Contemplated Action be dismissed as she feels we do not have enough information to go forward as it is currently pled. This NCA was issued almost two years ago based on a request to comply with MTP which she did not do and there is not enough underlying evidence to support this NCA. Ms. Bryson would like to issue a new Notice of Contemplated Action based on licensure action in another state.
- **MOTION** was made by Dr. Weiner to dismiss Case No. 2011-020. A Notice of Contemplated Action will be issued, based on, but not limited to, licensure action in another state. **SECONDED** by Ms. Cochran. **YES:** Dr. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller, Dr. Komadina, Dr. Weiner and Ms. Cochran. **RECOMMENDATION PASSED.**

**F. Assistant Attorney General – No report at this time.**

**G. Financial / HR Manager –**

- **Approve 2011 Annual Audit**  
**MOTION** was made by Dr. Weiner to accept the 2011 Annual Audit. **SECONDED** by Ms. Cochran. **YES:** Dr. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller, Dr. Komadina, Dr. Weiner and Ms. Cochran. **RECOMMENDATION PASSED.**
- **Review FY12 Budget and Revenue Status Report** - Ms. Mascarenas reviewed the FY2012 Budget Status Report ending January 31, 2012 and ending January 31<sup>st</sup> we have expended approximately 52% of our operating budget.

- H. **Administration** – No report at this time.
- I. **Investigations Department** - Ms. Dieterich introduced Amanda Chavez, our new investigator.
- J. **Compliance / Public Information Officer**
  - Since the biannual newsletter is no longer published and mailed, Ms. Walker proposed a different format for posting news bulletins, board actions and new licensees on the Board's website that would provide for more timely distribution of the sort of information that is requested most often by other entities. There was no objection to the proposal and a brief discussion ensued about the possibility of disseminating information to licensees also via electronic mail.

**EXECUTIVE SESSION:**

**MOTION** was made by Dr. Weiner 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. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller, Dr. Weiner, Ms. Cochran and Dr. Komadina. **MOTION CARRIED.**

**8. COMPLIANCE**

- **Board Monitored Compliance Report** - Ms. Walker reviewed the compliance report and provided status on all licensees.
- **Board Order – Timothy Busch, PA** – request probation be terminated  
**MOTION** was made by Dr. Weiner to remove all Stipulations and **GRANT** Mr. Busch an unrestricted license. **SECONDED** by Dr. Kovnat. **YES:** Dr. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller, Dr. Komadina, Dr. Weiner and Ms. Cochran. **RECOMMENDATION PASSED.**

**9. NM MONITORED TREATMENT PROGRAM**

Jon Thayer, MTP Executive Director, Dan Collins, M.D., MTP Medical Director and Kate Woods, Clinical Director discussed the status of mandatory and voluntary MTP participants and Mr. Thayer gave an update on the operations report.

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

**10. ACTIONS RELATED TO EXECUTIVE SESSION** – No actions at this time.

**EXECUTIVE SESSION:**

**MOTION** was made by Dr. Weiner 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. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller, Dr. Weiner, Ms. Cochran and Dr. Komadina. **MOTION CARRIED.**

**11. INFORMAL INTERVIEWS**

Mark Leatherwood, MD, Richard Hempstead, MD, Tracy Reavis, PA, Jennifer Tso, PA, Kathleen Van Osten, MD, Ralph Hansen, MD, Steven Black, MD, Kenneth Bull, MD, Ricardo Gomez, MD, Michael Lente, PA, Leroy Rise, MD, Robert Orchard, MD, Keven Sullivan, MD, Mark Masotti, MD, Timothy Busch, PA and Daniel Kerlinsky, MD (via teleconference) were interviewed in Executive Session regarding current practices and compliance with the Board. Adelfio Fronterotta, MD was excused due to medical reasons.

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

**12. ACTIONS RELATED TO EXECUTIVE SESSION**

**MOTION** was made by Dr. Weiner to **Summarily Suspend** Mark Leatherwood, MD's license to practice medicine. **SECONDED** by Dr. Kovnat. **YES:** Dr. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller, Dr. Komadina, Dr. Weiner and Ms. Cochran. **RECOMMENDATION PASSED.**

**FRIDAY, FEBRUARY 24, 2012**

Dr. Weiner called the meeting to Order at 9:00 am

**EXECUTIVE SESSION:**

**MOTION** was made by Dr. Weiner to go into closed session pursuant to Section 10-15-1(H)(1) of the Open Meetings Act to discuss matters of licensure and discipline. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller, Dr. Weiner, Ms. Cochran. **ABSENT:** Dr. Komadina. **MOTION CARRIED.**

**INFORMAL INTERVIEWS**

Michael Carey, MD was interviewed in Executive Session regarding current practices and compliance with the Board.

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

**13. NEW BUSINESS**

- **Proposed Pharmacy Prescription for Pseudoephedrine** – Bill Harvey, Board of Pharmacy Executive Director, addressed the Medical Board about the ongoing methadone problems in New Mexico. Then, he noted that the Federal government currently requires Pharmacies to keep Pseudoephedrine (PSE) in a locked cabinet, and purchasers to provide a government ID prior to purchase. The intention of this process would be to limit purchase of quantities needed for making methadone. The Board of Pharmacy is considering making all PSE products prescription only. The Board of Pharmacy is asking the Medical Board and the Nursing Board for support if all PSE products are declared to be "dangerous drugs" (requiring a prescription). The Medical Board was also asked for support in extending prescriptive authority to pharmacists allowing them to prescribe/dispense PSE. The Prescriptive Monitoring Program (PMP) monitors Schedules II – V controlled substances, and declaring PSE a Schedule V drug would require these products to be reported through the PMP and would aid in tracking the distribution among pharmacies and physicians. Mr. Harvey would like to present draft regulations to the Medical Board at a future meeting. The Board of Pharmacy has no plans to hold a rule hearing until the two boards and the Governor's office have reviewed the proposal.
- **Discuss Public Education regarding Rule 16.10.12 NMAC**  
This item was tabled at this time.
- **Rule Review**  
**16.10.10 NMAC Report of Settlements, Judgments, Adverse Actions and Credentialing Discrepancies**  
**MOTION** was made by Ms. Cochran to approve the amendments of 16.10.10 NMAC as presented and schedule a Rule Hearing at our 2<sup>nd</sup> Quarterly meeting in May. **SECONDED** by

Dr. Weiner. **YES:** Dr. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller, Dr. Komadina, Dr. Weiner and Ms. Cochran. **RECOMMENDATION PASSED.**

**14. ACTIONS RELATED TO EXECUTIVE SESSION – No action at this time**

**15. OLD BUSINESS**

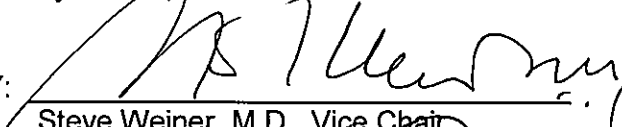
**• Catherine Torres, M.D., Cabinet Secretary, Department of Health  
Drug Overdose Task Force Recommendations**

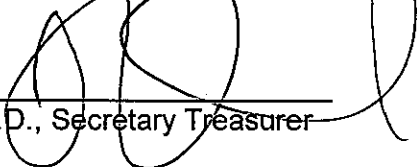
Dr. Torres and Dr. Michael Landen discussed the 2012 proposed legislation, including SB 158, SB 159, and SB 215 relating to pain management. Topics discussed, included:

- SB 215 amending the Pain Relief Act, came about from the HM 77 taskforce recommendations and guidelines. SB 215 creates a Prescription Drug Misuse and Overdose Prevention and Pain Management Advisory Council (“the Council”). The Council shall be administratively attached to the Department of Health (DOH) and shall recommend pain management and clinical guidelines. Members of the Council shall be appointed by the Governor. Ms. Hart is attending the Federation of State Medical Boards meeting on pain management guidelines in March.
  - Dr. Torres discussed the medical cannabis program and how it is being monitored. The Department of Health is working on a better tracking system of the users. Since post-traumatic stress disorder and chronic pain were approved in 2010 as qualifying conditions, the number of applicants wanting to join, and joining the medical marijuana program has increased.
  - Dr. Torres also discussed the use of Narcan and asked how the Board would feel if it were to be made available to youths under 18. In an aerosolized form, the drug can be administered nasally to heroin addicts.
  - Dr. Torres would like to meet with the Board at a later date and continue collaboration between the DOH and the Medical Board.
- Appoint Board Members for Rule Revision on Pain Management – Dr. Weiner, Dr. Jenkusky and Mr. Bourbon were asked to participate in the Rule Revision taskforce on Pain Management.**

**16. ADJOURN - There being no further business, the meeting adjourned at 11:45 a.m.**

SUBMITTED BY:  DATE: 4/6/12  
Lynn Hart, Executive Director

APPROVED BY:  DATE: 4.05.2012  
Steve Weiner, M.D., Vice Chair

APPROVED BY:  DATE: 7 5 12  
Paul Kovnat, M.D., Secretary Treasurer