

**NEW MEXICO MEDICAL BOARD**  
**Regular Board Meeting**  
**February 20-21, 2014**  
**FINAL MINUTES**

**Members Present:** Steve Weiner, M.D., Chair  
Steven Jenkusky, M.D., Vice Chair  
Rick Wallace, FACHE, Public Member  
Jennifer Anderson, Esquire, Public Member  
James Spence, M.D.  
Steven Komadina, M.D.  
Sam Kankanala, M.D.  
Peter Beaudette, M.D.  
Albert Bourbon, PA-C

**Others Present:** Lynn Hart, Executive Director  
Grant La Farge, M.D., Medical Director  
Sondra Frank, Board Attorney  
Dan Rubin, Administrative Prosecutor  
Amanda Quintana, Licensing Manager  
Debbie Dieterich, Investigations Manager  
Amanda Chavez, Investigator  
Samantha Breen, Administrative Assistant  
Jolene Casados, Licensing

**1. CALL TO ORDER / ROLL CALL**

Dr. Weiner called the Regular Board Meeting of the New Mexico Medical Board to order at 8:30 a.m. and a quorum was present. Dr. Weiner welcomed the new board member, Dr. James Spence.

**2. APPROVAL OF AGENDA**

**MOTION** was made by Dr. Weiner to approve the Agenda. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

**3. APPROVAL OF MINUTES**

**MOTION** was made by Dr. Weiner to accept and approve the minutes of the January 9, 2014 Interim Board Meeting as presented. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

**EXECUTIVE SESSION: Complaint Committee Reports / Executive Committee Report**

**MOTION** was made by Dr. Weiner to go into Executive 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 and disciplinary matters. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

**OPEN SESSION**

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.

**4. ACTIONS RELATED TO EXECUTIVE SESSION**

**Complaint Committee A**

**RECOMMENDATION** was made by Dr. Jenkusky to **CLOSE** Case #2013-A-047; #2013-A-056; #2013-A-124, #2013-A-155; #2013-A-170 and #2014-A-005. **YES:** Dr. Weiner; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Kankanala; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **MOTION CARRIED.**

**RECOMMENDATION** was made by Dr. Jenkusky to **CLOSE** Case #2013-A-017 with an Advisory Letter regarding better patient communication; and to **CLOSE** Case #2013-A-064 with an Advisory Letter regarding better patient communication, and to inform physician that the Board is concerned about the number of complaints received about the practice and will be closely monitoring future complaints. **YES:** Dr. Weiner; Ms. Anderson; Dr. Spence; Dr. Kankanala; Dr. Komadina; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **MOTION CARRIED.**

**Case #2013-A-0125 RECOMMENDATION** was made by Dr. Jenkusky to issue a Notice of Contemplated Action based on, but not limited to, obtaining a fee by fraud; use of a false, fraudulent or deceptive statement in a document connected with the practice of medicine; conduct likely to deceive the public; employing abusive billing practices; failure to report adverse action taken by a health care entity; conduct unbecoming; and failure to maintain complete medical records. **YES:** Dr. Weiner; Ms. Anderson; Dr. Spence; Dr. Kankanala; Dr. Komadina; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **MOTION CARRIED.**

**Case #2013-A-169 RECOMMENDATION** was made by Dr. Jenkusky to combine the failure to report violation in this case with the failure to report violation in Case #2013-A-125 and include it in the Notice of Contemplated Action. **YES:** Dr. Weiner; Ms. Anderson; Dr. Spence; Dr. Kankanala; Dr. Komadina; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **MOTION CARRIED.**

**Case #2013-A-184 RECOMMENDATION** was made by Dr. Jenkusky to offer physician a letter of reprimand based on misrepresentation on application for licensure; failure to report; and licensure action in another state. If physician does not accept, a Notice of Contemplated Action will be issued based on same. **YES:** Dr. Weiner; Ms. Anderson; Dr. Spence; Dr. Kankanala; Dr. Komadina; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **MOTION CARRIED.**

**Case #2013-A-201 RECOMMENDATION** was made by Dr. Jenkusky to offer physician applicant a stipulated license to MTP for mandatory participation in the program and all other standard substance abuse stipulations. If physician does not accept, a Notice of Contemplated Action will be issued based on habitual or excessive use of alcohol or substances and interaction with others that could adversely affect patient care. **YES:** Dr. Weiner; Ms. Anderson; Dr. Spence; Dr. Kankanala; Dr. Komadina; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **MOTION CARRIED.**

**Case #2013-A-215 RECOMMENDATION** was made by Dr. Jenkusky to offer physician a stipulated order requiring him to place his license on inactive status while under investigation, waiving the statute of limitations on the case. If he does not accept, a summary suspension of his license along with a Notice of Contemplated Action will be issued based on manifest incapacity to practice. **YES:** Dr. Weiner; Ms. Anderson; Dr. Spence; Dr. Kankanala; Dr. Komadina; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **MOTION CARRIED.**

#### **Complaint Committee B**

**RECOMMENDATION** was made by Dr. Komadina to **CLOSE** Case #2012-B-176; 2013-B-021 and 2013-B-078. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Spence and Dr. Komadina. **MOTION CARRIED.**

**RECOMMENDATION** was made by Dr. Komadina to **CLOSE** Case #2013-B-092 with an Advisory Letter regarding maintaining accurate and complete medical records on a patient and physicians responsibility for supervising the activities of his medical assistants; and, to **CLOSE** Case #2013-B-149 with an Advisory Letter regarding physician's responsibility for directly supervising the activities of her medical assistants as defined in the Medical Practice Act and regularly checking her prescriber PMP for accuracy since she is a chronic pain provider. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Spence and Dr. Komadina. **MOTION CARRIED.**

**Case #2013-B-042 RECOMMENDATION** was made by Dr. Komadina to offer physician a Stipulation of Licensure mirroring Colorado Medical Board's terms and conditions and any future terms and conditions required by the Board of Texas. If physician does not accept, a Notice of Contemplated Action will be issued based on, but not limited to, action in another state and conduct likely to harm the

public. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Spence and Dr. Komadina **MOTION CARRIED.**

**Case #2013-B-200 RECOMMENDATION** was made by Dr. Komadina offer Physician a Stipulated Order requiring physician to retire his medical license while under investigation and waive the statute of limitations on the investigation case. If physician does not accept, physician shall be asked to place his medical license on voluntary inactive status while undergoing an IPC evaluation. If physician does not accept either option, a Notice of Contemplated Action will be issued based on, but not limited to, injudicious prescribing, failure to maintain medical records, and conduct likely to harm the public. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Spence and Dr. Komadina. **MOTION CARRIED.**

#### **Complaint Committee C**

**RECOMMENDATION** was made by Dr. Kankanala to **CLOSE** Case #2012-C-140; 2013-C-008; 2013-C-015; 2013-C-020; 2013-C-071; 2013-C-077; 2013-C-158; 2013-C-174. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **MOTION CARRIED.**

**Case #2013-C-130 RECOMMENDATION** was made by Dr. Kankanala to issue unlicensed respondent a cease and desist letter. Complaint committee also recommends issuing the supervising physician a strong Advisory Letter regarding aiding and abetting the practice of a person not licensed, and his unethical conduct. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **MOTION CARRIED.**

**Case #2013-C-156 RECOMMENDATION** was made by Dr. Kankanala to issue of a Notice of Contemplated Action based on, but not limited to, violation of a drug law, failure to report, misrepresentation on a license application, conduct unbecoming in a person licensed to practice, conduct likely to harm. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **MOTION CARRIED.**

**Case #2013-C-183 RECOMMENDATION** was made by Dr. Kankanala to offer physician a letter of reprimand based on misrepresentation on application, failure to report and other state licensure action. If physician does not accept, a Notice of Contemplated Action will be issued based on same. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **MOTION CARRIED.**

**Case #2013-C-217 RECOMMENDATION** was made by Dr. Kankanala offer physician applicant the chance to withdraw his application for licensure while under investigation based on other state licensure action, and conduct unbecoming. If physician applicant does not accept, a Notice of Contemplated Action will be issued to deny licensure based on same. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **MOTION CARRIED.**

#### **Complaint Committee D**

**RECOMMENDATION** was made by Ms. Anderson to **CLOSE** Case #2013-D-051; 2013-D-057; 2013-D-060; 2013-D-061; 2013-D-072. **YES:** Dr. Weiner; Mr. Wallace; Dr. Spence; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **MOTION CARRIED.**

**RECOMMENDATION** was made by Ms. Anderson to **CLOSE** Case #2013-D-016 with an Advisory Letter regarding patient/physician communication, as well as communication with the Board; to **CLOSE** Case #2013-D-036 with an Advisory Letter regarding the Board's concern about the complaint and his response to the complainant, and that the Board will be closely monitoring future complaints against physician and to **CLOSE** Case#2013-D-154 with an Advisory Letter regarding the Board's Regulation on reporting adverse actions. **YES:** Dr. Weiner; Mr. Wallace; Dr. Spence; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **MOTION CARRIED.**

**Case #2013-D-103 RECOMMENDATION** was made by Ms. Anderson to refer physician to CPEP, or other comparable program, to have physician be evaluated for clinical competency pursuant to Board Regulation. The case will be held in Investigations until receipt of the CPEP, or other program's report, and then will return to Board for final disposition. If physician does not accept, a Notice of Contemplated Action will be issued based on, but not limited to, failure to cooperate with the Board. **YES:** Dr. Weiner; Mr. Wallace; Dr. Spence; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **MOTION CARRIED.**

**Case #2013-D-146 RECOMMENDATION** was made by Ms. Anderson to refer physician to CPEP, or other comparable program, to have physician be evaluated for clinical competency pursuant to Board Regulation. The case will be held in Investigations until receipt of the CPEP, or other program's report, and then will return to Board for final disposition. If physician does not accept, a Notice of Contemplated Action will be issued based on, but not limited to, failure to cooperate with the Board. **YES:** Dr. Weiner; Mr. Wallace; Dr. Spence; Dr. Komadina; Dr. Kankanala; Mr. Bourbon; Dr. Jenkusky. **RECUSED:** Ms. Anderson; Dr. Beaudette. **MOTION CARRIED.**

### **Complaint Committee E**

**RECOMMENDATION** was made by Dr. Weiner to **CLOSE** Case #2013-E-058; 2013-E-070; 2013-E-074. **YES:** Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner. **MOTION CARRIED.**

**Case #2012-E-134 RECOMMENDATION** was made by Dr. Weiner to issue Notice of Contemplated Action for incompetency to practice, repeated similar negligent acts, failure to maintain accurate and complete medical records, and using a false statement in a document connected with the practice of medicine. **YES:** Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner. **MOTION CARRIED.**

**Case #2013-E-010 RECOMMENDATION** was made by Dr. Weiner to issue a Notice of Contemplated Action based on, but not limited to, licensure action in another state; conduct unbecoming; conduct likely to harm the public. **YES:** Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner. **MOTION CARRIED.**

**Case#2013-E-099 RECOMMENDATION** was made by Dr. Weiner to offer physician a letter of reprimand, as well as requiring the completion of a week long course in treating chronic pain, based on injudicious prescribing and failure to maintain accurate and complete medical records. If physician does not accept, then a Notice of Contemplated Action will be issued regarding same. **YES:** Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner. **MOTION CARRIED.**

**Case #2014-E-003 RECOMMENDATION** was made Dr. Weiner that Physician be ordered to complete an evaluation vs. assessment by a substance abuse treatment program to rule out substance abuse or dependence, based on physician's history and recent reports received by the Board. This case will remain open pending the report. If physician does not agree, a Notice of Contemplated Action will be issued based on, but not limited to, failure to cooperate with the Board. **YES:** Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon; Dr. Jenkusky. **RECUSED:** Dr. Weiner. **MOTION CARRIED.**

**Case #2012-E-096 and Case #2013-E-022 RECOMMENDATION** was made by Dr. Weiner that physician and physician assistant be referred to CPEP, or comparable program, to be evaluated for clinical competency in chronic pain management. Both health care providers shall enter into a Stipulated Order requiring certain terms and conditions on their practice as determined by the Board, and to be amended based on CPEP's, or other comparable program's, recommendations. If physician and physician assistant do not agree, a Notice of Contemplated Action will be issued based on, but not limited to, incompetency to practice, injudicious prescribing, failure to maintain accurate and complete medical records, and violation of a drug law. **YES:** Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon; Dr. Jenkusky. **RECUSED:** Dr. Weiner. **MOTION CARRIED.**

**Case #2014-E-004 RECOMMENDATION** was made by Dr. Weiner to allow physician to withdraw his application and reapply in 2016 pursuant to his current board order or a Notice of Contemplated Action will be issued to deny licensure. **YES:** Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon; Dr. Jenkusky. **RECUSED:** Dr. Weiner. **MOTION CARRIED.**

**5. LICENSING ISSUES, NEW APPLICANTS / REINSTATEMENTS**

**Carl Gossett, M.D. – Consider Settlement, Case #2013-030**

**MOTION** was made by Dr. Weiner to accept the proposed settlement as presented by Mr. Rubin. Physician's license shall be suspended for a period of not less than 6 months, to be lifted after physician obtains a complete neuro-psych evaluation and completes the CPEP ProBE ethics course in Denver. The Board may accept and impose any restrictions on physician's license based on the evaluation. Physician shall not apply for DEA registration until January 1, 2016, after which time his prescribing of controlled substances will be restricted to within the context of treating patients in a hospital. **MOTION** was made by Dr. Weiner to **ACCEPT** the proposed settlement as presented by Mr. Rubin. **SECONDED:** Mr. Wallace **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Beaudette; Dr. Jenkusky. **RECUSED:** Dr. Kankanala; Mr. Bourbon. **ABSENT:** Dr. Kankanala. **MOTION CARRIED.**

**6. REPORTS**

**Chair Report**

Dr. Weiner reminded the Board that the next Quarterly Board meeting has been rescheduled to May 1-2, 2014.

**Executive Director**

Ms. Hart summarized the 2014 legislative session for the Board. She informed the Board that the legislative bill to eliminate the sunset provision from the Medical Practice Act was successful and that all votes were unanimous, despite the difficulty getting the bill onto the legislative committee agendas. The bill will now go to the Governor for approval. Some other bills of interest for physicians were not as well received and were not as successful.

A non-compete bill traveled through the House and the Senate; however, it's final status has not yet been determined. Ms. Hart stated that there were several "medicine for in school treatment" bills and she believes that at least one passed as it was well received. The GRT Deduction bill ended as soon as a price tag was put on it. The Sole Community Provider bill proved to be a major issue during the session. Mr. Wallace added that the hospitals were subsidized by "sole community dollars" and with the change, the distribution of funds is now dependent on the Human Services Department.

Another bill was introduced to remove the criterion of 3 years of continuous practice prior to application in order to qualify for NM Medical licensure by endorsement. The status of that bill has not yet been determined.

Ms. Hart informed the Board that the FSMB meeting will be held in Denver on April 24-26 and stated that the Board would be able to fund at least 2 board members. She requested that any member interested to please so inform her. Ms. Hart also added that FSMB Liaison Board Director Ralph Loomis will likely attend the August meeting.

Dr. Weiner and Ms. Hart then presented Dr. Miller with a special plaque in gratitude and appreciation for his years of hard work and dedication to the Medical Board.

**EXECUTIVE SESSION: MTP and Non MTP Reports**

**MOTION** was made by Dr. Weiner to go into Executive 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 and disciplinary matters. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

## **Board Monitored Compliance Report [Non MTP]**

Ms. Dieterich reviewed the compliance report and reported on the status of licensees.

## **NM Monitored Treatment Program (MTP)**

John Thayer of the NM Monitored Treatment Program was presented the status of all mandatory MTP participants and answered questions from the Board.

## **Informal Interviews**

Deborah Aaron, M.D.; Bertrand Bassett, M.D.; James Bradley, M.D. (absent); Elaine Bradshaw, M.D.; Alden Cockburn, M.D.; Heather Cumbo, Resident M.D.; Christopher Jones, M.D.; Edwin Kennedy, M.D.; Keith Levitt, M.D.; Benjamin Stake, M.D.; Chandler Morgan, PSGT; Richard Smith, M.D.; Suzanne Gray, M.D.; Donald Rodgers, M.D.; Michael Bermudez, M.D. (absent); Howard Siegel, M.D. (teleconference)

## **OPEN SESSION**

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.

## **7. ACTIONS RELATED TO EXECUTIVE SESSION**

### **Deborah Aaron, M.D. – Release from Board Stipulation**

**MOTION** was made by Dr. Weiner to release Dr. Aaron from the Board Stipulated Order. **SECONDED:** Dr. Jenkusky. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Kankanala; Dr. Beaudette and Dr. Jenkusky. **NO:** Mr. Bourbon **MOTION CARRIED.**

### **Donald Rodgers, M.D. – Release from Board Stipulated Order**

**MOTION** was made by Dr. Weiner to release Dr. Rodgers from the Board Stipulated Order. **SECONDED:** Dr. Jenkusky. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Beaudette. **MOTION CARRIED.**

### **Suzanne Gray, M.D. – Release from Board Stipulated Order**

**MOTION** was made Dr. Weiner to release Dr. Gray from the Board Stipulated Order. **SECONDED:** Dr. Jenkusky. **YES:** Dr. Weiner; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Mr. Wallace. **MOTION CARRIED.**

### **Heather Cumbo, Resident M.D. – Release from Board Stipulated Order**

**MOTION** was made Ms. Anderson to release Dr. Cumbo from the Board Stipulated Order. **SECONDED:** Dr. Weiner. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

## **ADJOURN**

Dr. Weiner adjourned the first day [February 20, 2014] of the February Regular Board Meeting at 5:10 p.m.

## **Friday, February 21, 2014**

Dr. Weiner reconvened the Medical Board and called the meeting to order at 9:00 a.m. on Friday, February 21, 2014; a quorum was present.

## **8. REPORTS**

### **Medical Director**

Dr. La Farge reminded the Board that there has been a steady and wide-spread increase in the application of the concept of 'Maintenance of Licensure' (MOL). The concept of MOL originated from the conclusion by the ABMS (American Board of Medical Specialties) that physicians are not good at evaluating themselves. The effort to amplify the scope and credibility of CME (Continuing Medical Education) began with the ABMS, the National Board of Medical Examiners, and other stakeholders, in looking at CME as an opportunity not only to participate in 'life-long learning' but also as a way of 'attesting' to knowledge and the clinical application of it, as well as to be able to document it effectively at the time of medical license renewal. Dr. La Farge presented to the Board the Draft Report of the Federation of State Medical Boards' special Task Force on Continuous Professional Development.

Recertification by the ABMS will continue as affirmation of current knowledge. 'MOL' will add to the requirement for CME through the physician's own measurement and analysis of an aspect of medical practice, consequent intervention and adjustment for creating improvement, and re-measurement to demonstrate the effect of that improvement. That task will further be based on relevance to the physician's scope of practice, and on the well-known six core competencies: medical knowledge, practice-based learning, patient care, professionalism, interpersonal and communication skills, and systems-based practice. The role of medical boards will then be to determine the acceptability of the activity as being relevant to the physician's practice and as having satisfied the MOL requirement for attestation of continued competence for renewal of medical licensure. Dr. Kankanala asked whether this would be a duplication for physicians recertifying through ABMS. Ms. Quintana stated that if a physician completes the maintenance of certification through their specialty board, it will satisfy the maintenance of licensure requirement. The physicians who are 'grandfathered' in their specialties, or who have not been board certified during a current renewal cycle, are those who would be encouraged, or required to participate actively in the maintenance of licensure programs.

### **Board Attorney**

Sondra Frank, Board Attorney, reported that since the last Board meeting, lease negotiations for the unused space in the Board office have gone relatively favorably. The landlord has agreed to pay for approximately \$15,000 in improvements, which include re-enforcing the floor in the new space so as to accommodate all of the paper records, storage of which has been a major issue. She stated that the General Services Department has given preliminary approval to the negotiations for the space and final approval should occur in about a week. Ms. Hart commended Ms. Frank and Ms. Mascarenas for their diligence in dealing with the negotiations.

Ms. Frank also informed the Board that she and other members of the staff are in the process of reviewing and updating the NMMB rules.

### **Licensing**

Amanda Quintana, NMMB Licensing Manager reported on the status of the required Pain Management CME, stating that approximately 2,100 licensees have completed that requirement. She further stated that two more notices will be sent out to remind all licensees of the requirement and the deadlines. Since Resident and Telemedicine licensees are not required to submit proof of 75 CME upon renewal, Ms. Quintana asked the Board how staff should proceed after July 1, 2014 to ensure that Resident and Telemedicine licensees with DEA registrations are completing the 5 CME hours required at the time of license renewal. Ms. Hart stated that the law requires that if a practitioner has a NM license, a DEA registration and a NM CSR (Controlled Substance Registration), licensees must submit proof of 5 AMA Category 1 Pain Management CME hours must be submitted for every triennial license renewal. Dr. Jenkusky suggested that licensees should be required to attest upon renewal that they have completed the requirement. Ms. Quintana stated that staff is in the process of adding the attestation to all documents.

Ms. Quintana then introduced Ms. Laura Grimes and Ms. Kathy Johnson from the NM Academy of Physician Assistants. A letter had been submitted to the Board requesting that the Board relook at their rules with respect to physician assistant licensing. Ms. Hart stated that a task force will be formed in order to identify which statutory changes might need to be made. Ms. Quintana requested that in addition to herself, Ms. Grimes serve on the task force along with Ms. Hart and Mr. Bourbon. Dr. Komadina and Dr. La Farge volunteered to assist them.

### **Financial / HR Manager**

Ms. Mascarenas informed the Board that the FY13 Audit had been completed, once again with no negative findings, and requested that the Board approve the audit. **MOTION** was made by Dr. Weiner to approve the FY13 Audit. **SECONDED:** Dr. Jenkusky. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

Ms. Mascarenas reported to the Board the status of the FY14 Budget and Revenue Status ending December 31, 2013. She stated that the operating budget has been expended by 44.9%, revenues collected are at 21%, and the cash balance is \$1,723,000. She further informed the Board that the



expenditures for hearing and litigation are at \$7,500 and that \$32,100 has been committed or encumbered for a total of 9 cases. A Budget Adjustment Request was processed in January to reallocate \$53,000 to cover expenditures until June 2014.

The FY15 HB2 budget is \$1,886,000, an increase of 8.7% from FY14. The appropriation includes primarily an increase in the operating budget for the administrative hearing process and for the additional office space. Also included in the appropriation is a 3% raise for all classified and exempt employees.

**Administrative Prosecutor**

**Prosecution Status Report** – Mr. Rubin reported on the status of pending administrative prosecution cases, including:

**George Schwartz, M.D.** – The Board filed motions: 1. Summary judgment and 2. to stay the mediation.

**Nicholas Nardacci, M.D.** – Dr. Nardacci filed a motion for substitution of counsel; a Statement of Appellate Issues is due.

**Pawan Jain, M.D.** – A decision is pending before the Las Cruces District Court.

**Richard Rubin, PA** – Mr. Richard Rubin filed a motion to reconsider dismissing the case.

**10. Presentation by Center for Personalized Education for Physicians (CPEP)**

Representatives from CPEP gave a presentation to the Board regarding the programs that are offered by their organization to physicians, physician assistants, nurses and podiatrists. CPEP evaluates healthcare providers who have been out of practice for an extended period of time for clinical competence, and they can identify educational needs to enhance a healthcare provider's practice patterns or assist in career transitions. CPEP also evaluates healthcare providers who may have personal health concerns, including recovery from disabling illness or injury, neurological concerns or substance abuse, and their clinical capabilities. CPEP has a specific pain management assessment and educational intervention program that will specifically evaluate a physician's pain management practice and remediate its deficiencies. In addition, CPEP offers courses on ethics and medical recordkeeping. CPEP is one of four programs in the United States that offers these services to these specific healthcare providers, hospitals and medical boards.


**Investigations**


Ms. Hart and Ms. Dieterich informed the Board that there is a current investigator position that the agency is in the process of filling, and the agency will be also hiring for another additional investigator position in the near future. The number of complaints opened by the staff has increased in the past couple of years and the number of board investigators needs to be increased. The difficulty in obtaining a pool of applicants who actually meet the duties required of the position was discussed.

**11. ADJOURN**

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

SUBMITTED BY:  DATE: 04/09/14  
Lynn Hart, Executive Director

APPROVED BY:  M.D. DATE: 4/9/14  
Steve Weiner, M.D., Chair

APPROVED BY:  DATE: 4/9/14  
Steven Jenkusky, M.D., Vice Chair