

NEW MEXICO MEDICAL BOARD
Interim Meeting
January 8, 2009

MINUTES

Members Present:

Paul Kovnat, M.D., Chairman
Steven Weiner, M.D., Vice-Chair
John Lauriello, M.D., Secretary-Treasurer – by teleconference
Roger Miller, M.D.
Vivian Giudice, M.D. – by teleconference
Reza Ghadimi, P.A.
Becky Cochran, Public Member – by teleconference at 4:10 pm

Members Absent:

Frank Crespin, M.D.
Richard Heim, Public Member

Also Present:

Lynn Hart, Executive Director
Grant La Farge, M.D., Medical Director
G.T.S. Khalsa, Board Prosecutor
Lynn Tipton, Administrative Assistant
JJ Walker, Compliance Mgr. / PIO
Debbie Dieterich, Senior Investigator
Andrea Buzzard, A.A.G.

1. CALL TO ORDER

The interim meeting of the New Mexico Medical Board convened at 4:02 p.m., Thursday, January 8, 2009 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 Frank Crespin, M.D, Richard Heim and Becky Cochran.

2. APPROVAL OF AGENDA

Dr. Weiner **MOVED** to approve the agenda. Mr. Ghadimi **SECONDED**. **YES:** Kovnat, Weiner, Lauriello, Giudice, Ghadimi and Miller. **RECUSED:** Heim **ABSENT:** Crespin and Cochran. **MOTION CARRIED.**

3. APPROVE MINUTES

Mr. Ghadimi **MOVED** to approve the minutes of the November 13 – 14, 2009 Quarterly Board meeting, pending amendment of paragraph under Item 15, New Business to read “became aware of” legislation instead of being approached. Dr. Weiner **SECONDED**. **YES:** Kovnat, Weiner, Lauriello, Cochran, Ghadimi and Giudice **RECUSED:** Heim **ABSENT:** Crespin. **ABSTAIN:** Miller. **MOTION CARRIED.**

4. CHAIR REPORT

Dr. Kovnat acknowledged Dr. McRoberts' term with the medical board and thanked him for

the time he served. He welcomed the board's newest member, Dr. Roger Miller. His term became effective January 1, 2009. Dr. Miller is a plastic surgeon who came to New Mexico in 1974. He retired from surgery three years ago and now works at the hospital in the wound care center one day a week. He also volunteers his time and skills abroad. Dr. Kovnat **MOVED** to excuse Mr. Heim from the January 8, 2009 meeting. Mr. Ghadimi **SECONDED**. **YES:** Kovnat, Weiner, Lauriello, Miller, Ghadimi and Giudice. **ABSENT:** Cochran and Crespin. **MOTION CARRIED.**

5. LEGISLATION

Physician Assistants Bill - Dr. Weiner discussed the Board's Task Force review and recommendations of the drafted bill. The draft of the bill allowed physician assistants licensed in New Mexico to practice under certain conditions without physician supervision; the task force requested input from various stake holders and organizations including the American Academy of Physician Assistants, individual PAs licensed in NM, Medical Directors of Presbyterian, ABQ Partners (formerly Lovelace), UNM and others; with the majority of those informing the members of the task force that they opposed the draft legislation. In attendance at the Board meeting to address this issue was Kim Berge, P.A. and board member of the NM Academy of Physician Assistants. She stressed that the academy was not in favor of the draft bill as presented nor were they formally approached with the idea of physician assistants practicing independently. **MOTION** was made by Dr. Weiner to adopt the task force's recommendation which is not to support this bill as drafted which allows independent practice of physician assistants. Mr. Ghadimi **SECONDED**. **YES:** Weiner, Lauriello, Miller, Giudice, Cochran and Ghadimi. **RECUSED:** Kovnat. **ABSENT:** Crespin and Heim. **MOTION CARRIED.**

- Other - Ms. Hart discussed possible legislation to be introduced from the Doctors of Oriental Medicine. They would like to expand their scope of practice and prescriptive authority, which is not yet defined. The response on the fiscal impact report would be to request a need for a scope of practice review by an independent committee authorized by the legislature to conduct analysis of scope of practice issues.

Executive Session: **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. **YES:** Kovnat, Weiner, Lauriello, Ghadimi, Miller, Giudice and Cochran. **ABSENT:** Crespin and Heim. **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.

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

• **Decision and Order, Bryan M. Wayne, M.D. – Case #2008-009**

Dr. Giudice **MOVED** to accept the Hearing Officer's Report and the recommended Order and **GRANT** a Stipulated License requiring physician's mandatory participation with MTP, restricting scheduled narcotics prescribing and direct patient care. This stipulation is in accordance with the terms and conditions set forth in the Hearing Officer's Report. This Stipulated License is reportable to the National Practitioners Data Bank and Healthcare Integrity and Protection Data Bank. Ms. Cochran **SECONDED**. **YES:** Weiner, Lauriello, Miller, Giudice, Cochran and Ghadimi. **RECUSED:** Kovnat. **ABSENT:** Crespin and Heim. **MOTION CARRIED.**

- **Decision and Order, Samuel Downing, M.D. – Case #2008-023**

Dr. Kovnat **MOVED** to accept the Hearing Officer's Report and recommended Order and **GRANT** a Stipulated License restricting physician's practice to administrative work only and prohibiting direct patient care. This stipulation is in accordance with the terms and conditions set forth in the Hearing Officer's report. Mr. Ghadimi **SECONDED**. **YES:** Lauriello, Miller, Giudice, Ghadimi and Kovnat. **RECUSED:** Weiner and Cochran. **ABSENT:** Crespin and Heim. **MOTION CARRIED.**

- **Decision and Order, Gary Gerlay, M.D. – Case #2008-002**

Dr. Weiner **MOVED** to accept the Hearing Officer's Report and recommended Order and **REVOKE** physician's license based on evidence presented at the hearing of unprofessional or dishonorable conduct. Neither Dr. Gerlay nor his representative attended the hearing. Ms. Cochran **SECONDED**. **YES:** Lauriello, Miller, Giudice, Cochran, Ghadimi and Weiner. **RECUSED:** Kovnat. **ABSENT:** Crespin and Heim. **MOTION CARRIED.**

- **Consider Settlement, Donald E. Rodgers, M.D. – Case #2008-020**

Administrative Prosecutor GTS Khalsa explained that Dr. Rodgers would like to settle the case without proceeding to a hearing by placing his license on probation and limiting procedures he can do in his office and requiring certain procedures to be done at Joint Commission approved facilities. This Order is reportable to the National Practitioners Data Bank and Healthcare Integrity and Protection Data Bank. Dr. Kovnat **MOVED** to accept the Order. Dr. Weiner **SECONDED**. **YES:** Weiner, Miller, Giudice, Cochran and Kovnat. **RECUSED:** Ghadimi and Lauriello. **ABSENT:** Crespin and Heim. **MOTION CARRIED.**

- **Consider Settlement, Donald Ham, M.D. – Case #2009-001**

Administrative Prosecutor GTS Khalsa explained that Dr. Ham would like to settle the case without proceeding to a hearing by placing his license on probation and restricting cataract surgeries to a NM Department of Health and Medicare certified facility. He can only perform cataract surgeries when either an anesthesiologist or a certified registered nurse anesthetist is physically present during the surgery. This Order is reportable to the National Practitioners Data Bank and Healthcare Integrity and Protection Data Bank. Dr. Kovnat **MOVED** to accept the Order. Mr. Ghadimi **SECONDED**. **YES:** Lauriello, Miller, Weiner, Cochran, Ghadimi and Kovnat. **RECUSED:** Giudice **ABSENT:** Crespin and Heim. **MOTION CARRIED.**

Executive Session: **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. **YES:** Kovnat, Weiner, Lauriello, Ghadimi, Miller, Giudice and Cochran. **ABSENT:** Crespin and Heim. **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.

7. INVESTIGATIONS

- **Complaint Committee A.** On behalf of Complaint Committee A, Dr. Weiner **MOVED** that complaint case 2008-A-134 (Robert George, M.D.) be offered a Stipulated License requiring physician's mandatory participation in the NM Monitored Treatment Program and other standard substance abuse stipulations. This Stipulated Order is reportable to


the national data banks. No second was required. YES: Lauriello, Miller, Giudice, Cochran, Ghadimi and Kovnat. RECUSED: Weiner ABSENT: Crespin and Heim. MOTION CARRIED.

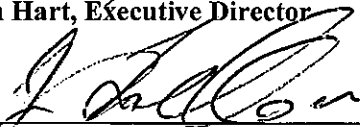
- **Complaint Committee B.** On behalf of Complaint Committee B, Ms. Cochran **MOVED** that complaint case 2008-B-249 (Adelfio Fronterotta, M.D.) voluntarily surrender his license while investigation is pending under the Impaired Physician Act. The case will remain open and return to the complaint committee for final determination. YES: Lauriello, Weiner, Giudice, Ghadimi and Kovnat. RECUSED: Cochran and Miller ABSENT: Crespin and Heim. MOTION CARRIED.
- **Complaint Committee D.** On behalf of Complaint Committee D, complaint case 2008-D-100 and complaint case 2008-D-167 (John Lillo, P.A.), Dr. Lauriello **MOVED** to accept Mr. Lillo's voluntary restriction of his license. He is restricted from prescribing, administering and dispensing controlled substances, Schedules II through V, while investigation is pending under the Impaired Physician Act. The case will remain open and return to the complaint committee for final determination. YES: Cochran, Weiner, Giudice, Ghadimi, Miller and Kovnat. RECUSED: Lauriello and Ghadimi ABSENT: Crespin and Heim. MOTION CARRIED.

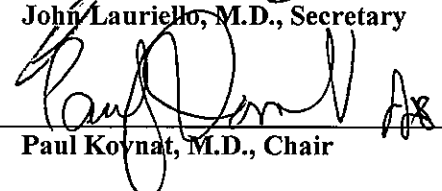
8. **COMPLIANCE**

- The Executive Committee will meet with Ms. Walker to review the list of monitored treatment interviewees and determine if there are any participants that may be excused from attending the February Quarterly meeting.

9. **ADJOURN:** There being no further business, the meeting adjourned at 5:02 p.m.

SUBMITTED:  Date: 2-20-09
Lynn Hart, Executive Director

APPROVED:  Date: 2-20-09
John Lauriello, M.D., Secretary

APPROVED:  Date: 2/20/09
Paul Kovnat, M.D., Chair