

**NEW MEXICO MEDICAL BOARD  
Second Quarter Meeting  
May 17 - 18, 2012**

**MINUTES**

**Members Present:** Steve Weiner, M.D., Chair  
Rebecca Cochran, CPMSM, CPCS, Vice Chair, Public Member  
Paul Kovnat, M.D., Secretary Treasurer (absent on May 18, 2012)  
Roger Miller, M.D.  
Steve Jenkusky, M.D.  
Sam Kankanala, M.D.  
Steven Komadina, M.D. (attended at 8:45 am)  
Albert Bourbon, PA-C (attended at 8:40 am)

**Others Present:** Lynn Hart, Executive Director  
Grant La Farge, M.D., Medical Director  
Andrea Buzzard, Assistant Attorney General  
Dan Rubin, Administrative Prosecutor  
Jerry Marshak, Administrative Prosecutor  
J.J. Walker, Compliance Manager / PIO  
Gayle Mascarenas, CFO / HR  
Lynn Tipton, Administrative Assistant  
Debbie Dieterich, Senior Investigator  
Leann Adams, Investigator  
Amanda Chavez, Investigator  
Samantha Breen, Licensing Clerk

(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 8:35 a.m., and a quorum was present.
2. **APPROVAL OF AGENDA:**  
**MOTION** was made by Dr. Weiner to approve the agenda. **SECONDED** by Ms. Cochran. **YES:** Ms. Cochran, Dr. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller and Dr. Weiner. **ABSENT:** Dr. Komadina and Mr. Bourbon **MOTION CARRIED.**
3. **APPROVAL OF MINUTES:**  
**MOTION** was made by Dr. Weiner to approve the Minutes from the April 5, 2012 Interim Meeting. **SECONDED** by Dr. Miller. **YES:** Ms. Cochran, Dr. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller and Dr. Weiner. **ABSENT:** Dr. Komadina and Mr. Bourbon **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 Ms. Cochran. **YES:** Ms. Cochran, Dr. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller and Dr. Weiner. **ABSENT:** Dr. Komadina and Mr. Bourbon **MOTION CARRIED.**

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. COMPLAINT COMMITTEE REPORTS:**

**A. Licensees and Applicants**

**Complaint Committee A:**

**RECOMMENDATION** was made by Dr. Kovnat to close complaint cases 2010-A-221; 2010-A-253; 2010-A-277; 2011-A-014; 2011-A-068; 2011-A-091; 2011-A-096; 2011-A-099; 2011-A-133; 2011-A-169, as there was no evidence of a violation of the Medical Practice Act or rules. **YES:** Dr. Weiner, Ms. Cochran, Mr. Bourbon, Dr. Kankanala, Dr. Miller and Dr. Jenkusky. **ABSTAINED:** Dr. Kovnat and Dr. Komadina. **RECOMMENDATION PASSED.**

**Case No. 2011-A-005 RECOMMENDATION** was made by Dr. Kovnat to close this case and to issue physician an advisory letter regarding patient interaction. **YES:** Dr. Weiner, Ms. Cochran, Mr. Bourbon, Dr. Kankanala, Dr. Miller and Dr. Jenkusky. **ABSTAINED:** Dr. Kovnat and Dr. Komadina. **RECOMMENDATION PASSED.**

**Case No. 2011-A-027 RECOMMENDATION** was made by Dr. Kovnat to close this case and to issue physician an advisory letter regarding office management with regard to flow of patients and double booking appointments and respecting patients' needs and rights. **YES:** Dr. Weiner, Ms. Cochran, Mr. Bourbon, Dr. Kankanala, Dr. Miller and Dr. Jenkusky. **ABSTAINED:** Dr. Kovnat and Dr. Komadina. **RECOMMENDATION PASSED.**

**Case No. 2012-A-035 (Chandler Morgan, PST) RECOMMENDATION** was made by Dr. Kovnat to offer the Polysomnographic Technician a stipulated license requiring mandatory participation in NM Monitored Treatment Program and other standard substance abuse stipulations. 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.

**Complaint Committee B:**

**RECOMMENDATION** was made by Ms. Cochran to close complaint cases 2010-B-269; 2010-B-274; 2010-B-278; 2011-B-028; 2011-B-064; 2011-B-090; 2011-B-093; 2011-B-101 and 2011-B-152 as there was no evidence of a violation of the Medical Practice Act or rules. **YES:** Mr. Bourbon, Dr. Kovnat, Dr. Kankanala, Dr. Komadina, Dr. Jenkusky and Dr. Weiner. **ABSTAINED:** Ms. Cochran and Dr. Miller. **RECOMMENDATION PASSED.**

**Case No. 2011-B-001 RECOMMENDATION** was made by Ms. Cochran to close this case and to issue physician an advisory letter regarding appropriate medical record charting. **YES:** Mr. Bourbon, Dr. Kovnat, Dr. Kankanala, Dr. Komadina, Dr. Jenkusky and Dr. Weiner. **ABSTAINED:** Ms. Cochran and Dr. Miller. **RECOMMENDATION PASSED.**

**Case No. 2011-B-181 RECOMMENDATION** was made by Ms. Cochran to close this case and to issue physician a letter regarding upcoming implementation of the Board's regulation on treating chronic pain with controlled substances. **YES:** Mr. Bourbon, Dr. Kovnat, Dr. Kankanala, Dr. Komadina, Dr. Jenkusky 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-206; 2010-C-251; 2011-C-033; 2011-C-037; 2011-C-061; 2011-C-070; 2011-C-079; 2011-C-083; 2011-C-098; 2011-C-100; 2011-C-107 and 2011-C-237 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, Ms. Cochran and Mr. Bourbon. **ABSTAINED:** Dr. Kankanala. **RECOMMENDATION PASSED.**

**Case No. 2011-C-060 RECOMMENDATION** was made by Dr. Kankanala to close this case and to issue physician an advisory letter regarding failure to report and interaction with patients. **YES:** Dr. Kovnat, Dr. Miller, Dr. Jenkusky, Dr. Komadina, Dr. Weiner, Ms. Cochran and Mr. Bourbon. **ABSTAINED:** Dr. Kankanala. **RECOMMENDATION PASSED.**

**Complaint Committee D:**

**RECOMMENDATION** was made by Mr. Bourbon to close complaint cases 2011-D-013; 2011-D-015; 2011-D-034; 2011-D-054; 2011-D-172 as there was no evidence of a violation of the Medical Practice Act or rules. **YES:** Dr. Kovnat, Dr. Kankanala, Dr. Miller, Dr. Komadina, Dr. Weiner and Ms. Cochran. **ABSTAINED:** Dr. Jenkusky and Mr. Bourbon. **RECOMMENDATION PASSED.**

**Case No. 2011-D-040 RECOMMENDATION** was made by Mr. Bourbon to close this case and to issue the physician an advisory letter regarding failure to report an arrest and change of supervisor to the Board as required. **YES:** Dr. Kovnat, Dr. Kankanala, Dr. Miller, Dr. Komadina, Dr. Weiner and Ms. Cochran. **ABSTAINED:** Dr. Jenkusky and Mr. Bourbon. **RECOMMENDATION PASSED.**

**Case No. 2011-D-062 RECOMMENDATION** was made by Mr. Bourbon to close this case and to issue an advisory letter to Physician Assistant and Physician regarding appropriate communication and ethical behavior towards patients, expected ethical supervision of physician assistant by the physician, and the recommendation provided to the patient regarding the Hemoglobin level. **YES:** Dr. Kovnat, Dr. Kankanala, Dr. Miller, Dr. Komadina, Dr. Weiner and Ms. Cochran. **ABSTAINED:** Dr. Jenkusky and Mr. Bourbon. **RECOMMENDATION PASSED.**

**Case No. 2012-D-038 RECOMMENDATION** was made by Mr. Bourbon to close this case and to issue the physician an advisory letter regarding the fact that physician assistant can only be supervised by an Osteopathic Physician if physician assistant is also licensed by the Osteopathic Board. Otherwise supervision must be by a medical doctor per Board Regulation. **YES:** Dr. Kovnat, Dr. Kankanala, Dr. Miller, Dr. Komadina, Dr. Weiner and Ms. Cochran. **ABSTAINED:** Dr. Jenkusky and Mr. Bourbon. **RECOMMENDATION PASSED.**

**Case No. 2011-D-215 (Daniel Brandt, M.D.) RECOMMENDATION** was made by Mr. Bourbon to accept the Impaired Physician Committee recommendations and to offer stipulated license requiring mandatory participation in NM Monitored Treatment Program and other standard substance abuse stipulations. **YES:** Dr. Kovnat, Dr. Kankanala, Dr. Miller, Dr. Komadina, Dr. Weiner and Ms. Cochran. **ABSTAINED:** Dr. Jenkusky and Mr. Bourbon. **RECOMMENDATION PASSED.**

**Case No. 2012-D-021 (Richard Rubin, PA) RECOMMENDATION** was made by Mr. Bourbon to **Summarily Suspend** physician assistant's license to practice medicine based on him being an immediate danger to the public and to simultaneously issue a Notice of Contemplated Action based on, but not limited to, conduct unbecoming; conduct likely to deceive the public; use of a deceptive statement in a document connected with the practice of medicine; manifest incapacity to practice; obtaining a fee by misrepresentation; interaction with other healthcare providers that could interfere with patient care; and practicing without physician supervision. **YES:** Dr. Kovnat, Dr. Kankanala, Dr. Miller, Dr. Komadina, Dr. Weiner and Ms. Cochran. **ABSTAINED:** Dr. Jenkusky and Mr. Bourbon. **RECOMMENDATION PASSED.**

**Case No. 2012-D-021 RECOMMENDATION** was made by Mr. Bourbon to close this case against supervising physician as there was no evidence of a violation of the Medical Practice Act or rules. **YES:** Dr. Kovnat, Dr. Kankanala, Dr. Miller, Dr. Komadina, Dr. Weiner and Ms. Cochran. **ABSTAINED:** Dr. Jenkusky and Mr. Bourbon. **RECOMMENDATION PASSED.**

**Case No. 2012-D-032 ( [REDACTED] ) RECOMMENDATION** was made by Mr. Bourbon to issue a Notice of Contemplated Action based on, but not limited to, injudicious prescribing and failure to maintain accurate and complete medical records. **YES:** Dr. Kovnat, Dr. Kankanala, Dr. Miller, Dr. Komadina, Dr. Weiner and Ms. Cochran. **ABSTAINED:** Dr. Jenkusky and Mr. Bourbon. **RECOMMENDATION PASSED.**

**Complaint Committee E:**

**RECOMMENDATION** is made by Dr. Weiner to close case 2011-E-069 as there was no evidence of a violation of the Medical Practice Act or rules. **YES:** Ms. Cochran, Mr. Bourbon, Dr. Kovnat, Dr. Kankanala, Dr. Miller, Dr. Komadina and Dr. Jenkusky. **ABSTAINED:** Dr. Weiner  
**RECOMMENDATION PASSED.**

**B. Executive Committee Report**

- Criminal History Hits

There were no criminal history hits to report on this quarter.

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

**5. LICENSING REQUESTS AND ACTIONS, NEW APPLICANTS / REINSTATEMENTS:**

- **Rajkumar Yarlagadda, M.D. – Consider AACRAO evaluation and grant unrestricted medical license**

**MOTION** was made by Dr. Weiner to consider the AACRAO evaluation and **GRANT** Dr. Yarlagadda an unrestricted license to practice medicine in New Mexico. **SECONDED** by Ms. Cochran. **YES:** Dr. Weiner, Ms. Cochran, Mr. Bourbon, Dr. Kovnat, Dr. Kankanala, Dr. Miller, Dr. Jenkusky and Dr. Komadina. **MOTION CARRIED.**

**6. REPORTS**

**A. Chair** – Dr. Weiner asked that Ms Cochran, Ms. Hart, and Dr. La Farge report on some of the important issues that were discussed at the 2012, 100<sup>th</sup> Anniversary meeting of the Federation of State Medical Boards. Their report follows:

- Current status of medical manpower. There are 850,055 licensed physicians (MD/DO) in the U.S.A., 25% of whom hold more than one State license. Physicians with Telemedicine licenses frequently have 30 to 40 State licenses. Key issues in manpower relate to how many physicians are in full or part time practice, or simply maintain an active license without practice. Better future distribution will also be mandatory, as will more graduates from medical schools.
- Strong emphasis was given to the requirement that physicians must be licensed first before they accept a position, or move to another State and buy a house! The concept is that a "complete residency" is basically three years, though surgical specialties may take longer in order to complete training.
- Several speakers and sessions emphasized the necessity for adequate training in opiate pharmacology, prescription, safeguarding of medication (secure

medicine cabinets), and proper disposal. Further, ongoing CME must be required for practitioners treating chronic pain, as well as the frequent and appropriate use of the prescription monitoring programs ("PMP") that are now active in all but two States. Dr. Fishman discussed the new edition of his book on "Responsible Opioid Prescribing" with emphasis on the enormous increase in substance use disorders and overdose deaths in many States and the role of physicians as risk managers.

- The concept of and need for expedited licensure was thoroughly discussed, with emphasis on criteria for identifying specific attributes of a category of physicians that could allow other States to "fast-track" an application rapidly, without duplicating prior, in-depth document re-checking. A national repository of such information, online, will be necessary, and the FSMB's FCVS (Federation Credentials Verification Service) is being revised to attain that capability.
- The issue of Senator Udall's "national license" proposal—and Bill—was also discussed during several sessions, with emphasis on issues of protection of the public being a State responsibility, and re-emphasis on the importance of licensing fees being necessary to the support for the investigation and discipline of problem physicians. There was little support expressed for national licensure.
- The concept of practicing medicine on "social networking sites", like "Facebook", was also reviewed in depth, noting a significant increase in complaints about breach of privacy and the "fuzzy" nature of the boundary between confidentiality and the very public nature of communication on social media. Further emphasis was placed on professionalism, ethical and truthful communication, and the three basics: candor, privacy, and integrity in maintaining an appropriate physician-patient relationship, as stated in the FSMB's "Model Policy on Social Media and Networking in Medical Practice".

- B. Secretary / Treasurer – National Licensure Bill Update** – Dr. Kovnat and Ms. Hart provided an update on the current status of the National Licensure Bill that is about to be introduced by Senator Tom Udall. Both the Federation of State Medical Boards and our NM board oppose this bill. The Federation is addressing some of the specific issues in the Bill that we, along with other state boards, also oppose. Ms. Hart stated that we, as well as the Federation, had attempted to explain the problems inherent in the Bill to Ms. Fern Goodhart, Senator Udall's legal assistant, but to no avail. Ms. Hart added that the proposed Bill does not make allowance for individual States' rights and responsibilities for protecting their citizens in matters of medical malfeasance. The Federation along with its hired a lobbyist will be following the proposed bill through the congressional committee hearings.
- C. Executive Director** - Lynn Hart, Executive Director, reported that our new Administrative Prosecutor, Dan Rubin will officially start on May 21<sup>st</sup>. She acknowledged and thanked Jerry Marshak for having served the board during the interim between prosecutors.
- D. Medical Director** – No other report at this time.
- E. Assistant Attorney General** – No report 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:** Ms. Cochran, Dr. Kankanala, Dr. Kovnat, Dr. Jenkusky, Dr. Miller and Dr. Weiner, Dr. Komadina and Mr. Bourbon **MOTION CARRIED.**

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.

**F. Administrative Prosecutor**

- **NCA Status Report** – Mr. Marshak reviewed the status of cases regarding recommendations the board had voted on.
- **Consider Settlement – Frank Bryant, M.D.**  
**MOTION** was made by Dr. Weiner to accept the proposed Amended Settlement of a Letter of Reprimand as presented by Jerry Marshak, Administrative Prosecutor. **SECONDED** by Ms. Cochran. **YES:** Mr. Bourbon, Dr. Kankanala, Dr. Kovnat, Dr. Miller, Dr. Jenkusky, Dr. Komadina, Dr. Weiner and Ms. Cochran. **MOTION CARRIED.**
- **Consider Settlement – Brian Eggener, M.D.**  
**MOTION** was made by Dr. Weiner to accept the Agreed Order as presented by Jerry Marshak, Administrative Prosecutor, and allow Dr. Eggener to withdraw his application while under investigation. **SECONDED** by Ms. Cochran. **YES:** Mr. Bourbon, Dr. Kankanala, Dr. Kovnat, Dr. Miller, Dr. Jenkusky, Dr. Komadina, Dr. Weiner and Ms. Cochran. **MOTION CARRIED.**
- **Decision and Order – Vernon Johnson, M.D.**  
**MOTION** was made by Dr. Weiner to **ADOPT** the Hearing Officer's Report in its entirety and **DENY** Dr. Johnson's application for licensure based on misrepresentation on his application to the board. **SECONDED** by Ms. Cochran. **YES:** Mr. Bourbon, Dr. Kankanala, Dr. Kovnat, Dr. Miller, Dr. Jenkusky, Dr. Komadina, Dr. Weiner and Ms. Cochran. **MOTION CARRIED.**

**G. Licensing Clerk – Failure to Submit Second Set of Fingerprints**

Ms. Breen asked the Board for guidance regarding the approximately 23 licensees who have not provided a second set of fingerprints. The Board suggested we contact the individuals who renew this year by email, phone or mail and remind these licensees that failure to provide the fingerprints is a violation of Section 61-6-15.D(23) of the Medical Practice Act. Also, the Board will **HOLD** their renewal until the fingerprints are received.

**H. Financial / HR Manager**

- **Review FY12 Budget and Revenue Status Report** - Ms. Mascarenas reviewed the FY2012 Budget Status Report ending in April, 2012 and reported that we have projected accurately in the past three years and have not had to make any budget adjustment requests.

**I. Investigations Department** - Ms. Dieterich updated the board on the current status of investigative cases.

**J. Compliance / Public Information Officer** – No report 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:** Mr. Bourbon, Dr. Kovnat, Dr. Kankanala, Dr. Miller, Dr. Jenkusky, Dr. Komadina, Dr. Weiner and Ms. Cochran. **MOTION CARRIED.**

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. **COMPLIANCE**

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

8. **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.

9. **INFORMAL INTERVIEWS**

Tracy Reavis, PA, Jennifer Tso, PA, Adelfio Fronterotta, MD, Steven Black, MD, James Bradley, MD, Kathleen Van Osten, MD, Sally D'Angelo, MD, Stephanie Hedstrom, MD, Kenneth Bull, MD, Jon Wagner, MD, Richard Hempstead, MD, Timothy Klein, MD, James Cordova, RPSGT, David Stalker, MD, Leroy Rise, MD, Michael Lente, PA, David Melamed, MD and Daniel Kerlinsky, MD were interviewed in Executive Session regarding current practices and compliance with Board requirements.

**FRIDAY, MAY 18, 2012**

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

10. **RULE HEARING**

**A rule hearing was held on Friday at 9:00 am and the following rule was considered:**  
**16.10.10 NMAC** – Report of Settlements, Judgments, Adverse Actions and Credentialing Discrepancies

11. **ADOPTION OF RULE 16.10.10 NMAC**

**MOTION** was made by Dr. Weiner to adopt Title 16, Chapter 10, Part 10 as presented at the Rule Hearing. **SECONDED** by Ms. Cochran. **YES:** Mr. Bourbon, Dr. Jenkusky, Dr. Kankanala, Dr. Miller, Dr. Komadina, Dr. Weiner and Ms. Cochran. **ABSENT:** Dr. Kovnat **MOTION PASSED.**

12. **NEW BUSINESS**

A. **Election of Officers**

Dr. Komadina **MOVED** that the Board accept the nomination to reappoint Dr. Weiner as Chair by acclamation. Dr. Kankanala **SECONDED.** **YES:** Dr. Miller, Dr. Komadina, Dr. Jenkusky, Mr. Bourbon, Dr. Kovnat and Dr. Kankanala. **ABSTAINED:** Dr. Weiner. **ABSENT:** Ms. Cochran **MOTION CARRIED.**

Dr. Weiner **Moved** that the Board accept the nomination to reappoint Ms. Cochran as Vice Chair by acclamation. Dr. Jenkusky **Seconded**. **YES:** Dr. Miller, Dr. Komadina, Dr. Jenkusky, Mr. Bourbon, Dr. Kovnat, Dr. Kankanala and Dr. Weiner. **ABSENT:** Ms. Cochran **MOTION CARRIED.**

Dr. Weiner **Moved** that the Board accept the nomination to reappoint Dr. Kovnat as Secretary Treasurer by acclamation. Mr. Bourbon **Seconded**. **YES:** Dr. Kankanala, Dr. Miller, Dr. Jenkusky, Dr. Komadina, Dr. Weiner and Mr. Bourbon. **ABSTAINED:** Dr. Kovnat. **MOTION CARRIED.**

**B. Adopt Open Meetings Resolution**

**MOTION** was made by Dr. Komadina to **ADOPT** the annual Open Meetings Resolution as presented. Dr. Kankanala **Seconded**. **YES:** Dr. Miller, Dr. Komadina, Dr. Jenkusky, Mr. Bourbon, Dr. Kovnat, Dr. Kankanala and Dr. Weiner. **ABSENT:** Ms. Cochran **MOTION CARRIED.**

**C. Proposed Schedule Meeting Dates for 2013 Calendar - This item was tabled for final decision until the next meeting.**

Proposed Quarterly Meetings: February 21-22, 2013; May 16-17, 2013; August 15-16, 2013; November 21-22, 2013

Proposed Interim Meetings: January 3, 2013; April 4, 2013; June 27, 2013; October 3, 2013

Next Annual FSMB Meeting – Boston, MA - April 18 - 20, 2013)

**D. Rule Review**

• **16.10.14 NMAC – Management of Chronic Pain with Controlled Substances**

Ms. Hart gave an overview of what is required by Senate Bill 215, amending the Pain Relief Act, to amend our rules or create a rule that would mandate that licensees who prescribe controlled substances be required to obtain a certain number of educational hours in every renewal cycle. Also required is that all practitioner licensing boards adopt guidelines or regulations for clinical procedures for treating pain. The Board needs to publish the rule for public comment in order to have a rule hearing in August. Dr. Jenkusky has been leading a workgroup discussing the requirement for continuing medical educational hours as well as rules for the procedure for treating chronic pain. The workgroup identified an urgent need to establish educational requirements within the next year instead of waiting for the regular licensee renewal cycle.

Dr. Jenkusky, along with Dr. Katzman and Dr. Commerci, (of the ECHO Program), spoke to the Board regarding other state mandates and the need to adopt chronic pain requirements to protect the public.

Discussion was then held among the Board Members regarding the requirements of continuing medical education hours. It was the consensus of the Board to require ten hours every three-year renewal cycle, including five defined hours during the first year after the rule goes into effect, or within the first year after licensure.

Dr. Jenkusky discussed the Prescription Monitoring Program "PMP" that will require all doctors to register and to use it appropriately during treatment of chronic pain.

**MOTION** was made by Dr. Weiner to approve the amendments of 16.10.14 NMAC as presented, send it out for public comment and schedule a Rule Hearing at our 3rd Quarterly meeting in August. **Seconded** by Ms. Cochran. **YES:** Mr. Bourbon, Dr. Jenkusky, Dr. Kankanala, Dr. Miller, Dr. Komadina, Dr. Weiner and Ms. Cochran. **ABSENT:** Dr. Kovnat **MOTION PASSED.**



- E. **Proposed Pharmacy Regulations** - Dr. LaFarge briefly discussed the proposed amendments to the following Pharmacy Board rules.
- **16.19.4 NMAC – Pharmacy**
  - **16.19.20 NMAC – Controlled Substances**
  - **16.19.29 NMAC – Controlled Substance Prescription Monitoring Program**
- F. **Support Exempting Nurses from Medical Image Licensing** – Linda Siegle, a representative of different nursing groups throughout the state discussed with the Board the legislation that was passed in 2009 to license sonographers and radiology techs. A part of the legislation would require nurses, unlike other medical practitioners, to be licensed to use sonography or ionizing and non-ionizing radiation procedures. The bill had been drafted poorly and the Rules and Regulations are still being worked on and have not yet gone into effect. Were the rules to go into effect as the Act is written, it would require nurses to prove their education and training to the NM Environment Department Medical Imaging and Radiation Therapy Advisory Council (MIRTAC) and obtain approval prior to using ultrasound or any form of radiation. The nurses have asked the Medical Board for their support to be exempt from this Act. The Board of Nursing will go before the legislature in 2013 with the request to exempt nurses from this existing Act. Dr. Weiner **MOVED** that the New Mexico Medical Board support the exemption of nurses from the current requirements of the NM Environment Department Medical Imaging and Radiation Therapy Health and Safety Act. Dr. Jenkusky **SECONDED YES**: Dr. Weiner, Ms. Cochran, Mr. Bourbon, Dr. Kankanala, Dr. Kovnat, Dr. Miller, Dr. Komadina and Dr. Jenkusky. **MOTION PASSED.**

**EXECUTIVE SESSION:**

**MOTION** was made by Dr. Weiner to go into closed session pursuant to Section 10-15-1(H)(7) of the Open Meetings Act to discuss matters subject to the attorney – client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant. **SECONDED** by Ms. Cochran. **YES**: Mr. Bourbon, Dr. Kovnat, Dr. Kankanala, Dr. Miller, Dr. Jenkusky, Dr. Komadina, Dr. Weiner and Ms. Cochran. **MOTION CARRIED.**

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. OLD BUSINESS**

- A. **Update on Chiropractic Appeal regarding rules** – Discussed in executive session.

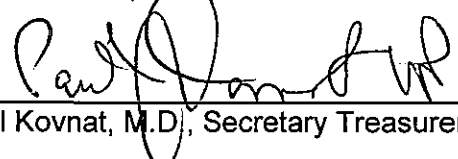
**14. ADJOURN** - There being no further business, the meeting adjourned at 11:45 a.m.

SUBMITTED BY:   
Lynn S. Hart, Executive Director

DATE: July 2, 2012

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

DATE: June 28, 2012

APPROVED BY:   
Paul Kovnat, M.D., Secretary Treasurer

DATE: 6 28 2012