

NEW MEXICO MEDICAL BOARD
Second Quarter Meeting
May 16-17, 2013

MINUTES

Members Present:

Steve Weiner, MD, Chair
Paul Kovnat, MD, Secretary / Treasurer
Roger Miller, MD
Steven Jenkusky, MD
Sam Kankanala, MD
Steven Komadina, MD
Albert Bourbon, PA
Jennifer Anderson, Esquire

Members Absent:

Ricky Wallace, Public Member

Others Present:

Lynn Hart, Executive Director
Andrea Buzzard, Assistant Attorney General (left at 11:30 am)
Dan Rubin, Administrative Prosecutor
Grant La Farge, M.D., Medical Director
Gayle Mascarenas, CFO/HR
Jackie Holmes, Compliance Manager/ PIO
Amanda Quintana, Licensing Manager
Debbie Dieterich, Investigations Manager
Amanda Chavez, Investigator
Leann Lovato, Investigator
Samantha Breen, Administrative Assistant
(See list of attendees attached to these minutes)

1. CALL TO ORDER / ROLL CALL:

Dr. Weiner called the regular meeting of the New Mexico Medical Board to order at 8:30 a. m. and a quorum was present. He introduced the Board's new member, Jennifer Anderson.

2. APPROVAL OF AGENDA:

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

3. APPROVAL OF MINUTES:

MOTION was made by Dr. Weiner to approve the minutes of the March 28, 2013 Interim Meeting. **SECONDED** by Dr. Kovnat. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Kovnat; Mr. Bourbon, and Dr. Jenkusky. **ABSENT:** Mr. Wallace. **MOTION CARRIED.**

EXECUTIVE SESSION:

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. Kovnat. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Kovnat; Mr. Bourbon and Dr. Jenkusky. **ABSENT:** Mr. Wallace. **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. Complaint Committee Reports

Complaint Committee A:

RECOMMENDATION was made by Dr. Kovnat to close complaint cases; 2012-A-077; 2012-A-097; 2012-A-100; 2012-A-102; 2012-A-108; 2012-A-111; 2012-A-123; 2012-A-132 and 2013-A-013 as there was no evidence of a violation of the Medical Practice Act or rules. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Kovnat. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Case #2013-A-041 RECOMMENDATION was made by Dr. Kovnat to close this case and issue an advisory letter reminding physician of the reporting requirements, with a copy of the letter to the radiology company. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Kovnat. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Case #2013-A-003 RECOMMENDATION was made by Dr. Kovnat to offer physician a stipulated license requiring mandatory participation in MTP with the usual standard substance abuse stipulations. If physician refuses, issuance of a Notice of Contemplated Action based on, but not limited to, habitual or excessive use of substances. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Kovnat. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Case #2013-A-047 RECOMMENDATION was made by Dr. Kovnat to offer physician a letter of reprimand, based on, but not limited to, injudicious prescribing, prescribing to family members, and maintaining inaccurate and incomplete medical records. If physician does not accept, the complaint committee recommends the issuance of a Notice of Contemplated Action based on the same. Complaint committee also recommends physician be evaluated by an Impaired Physician committee. The case will remain open pending the IPC report. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Kovnat. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Case #2013-A-068 RECOMMENDATION was made by Dr. Kovnat to send the technician applicant a cease and desist letter, and send an advisory letter to the physician, who is medical director of the sleep clinic, advising him that any techs working in his clinic who are not licensed with the Board must cease and desist from practicing until they come into compliance with Board regulations. Physician will be responsible for the tech's compliance, and the case will remain open until all required documentation is received on sleep tech to determine licensure. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Kovnat. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Complaint Committee B:

RECOMMENDATION was made by Dr. Miller to close complaint cases 2012-B-017; 2012-B-086; 2012-B-091; 2012-B-094; 2012-B-103; 2012-B-113; 2012-B-118; 2012-B-120; 2012-B-144; 2012-B-146; 2012-B-147; 2012-B-178; 2013-B-002; 2013-B-014 as there was no evidence of a violation of the Medical Practice Act or rules. **YES:** Dr. Weiner; Ms. Anderson; Dr. Kankanala; Dr. Kovnat; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Miller and Dr. Komadina. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Case #2012-B-071 RECOMMENDATION was made by Dr. Komadina to close the case with an advisory letter reminding physician of the Board's regulations on the requirement that a physician must have direct supervision of the employees performing laser procedures and documenting when the physician is in the office. **YES:** Dr. Weiner; Ms. Anderson; Dr. Kankanala; Dr. Kovnat; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Miller and Dr. Komadina. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Case #2013-B-038 RECOMMENDATION was made by Dr. Komadina to close the case with an advisory letter regarding the Board's reporting requirements. **YES:** Dr. Weiner; Ms. Anderson; Dr. Kankanala; Dr. Kovnat; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Miller and Dr. Komadina. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Case #2013-B-046 RECOMMENDATION was made by Dr. Komadina to issue a Notice of Contemplated Action to deny licensure based on, but not limited to, licensure action in another state and incompetency to practice. **YES:** Dr. Weiner; Ms. Anderson; Dr. Kankanala; Dr. Kovnat; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Miller and Dr. Komadina. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Complaint Committee C:

RECOMMENDATION was made by Dr. Kankanala to close complaint cases 2012-C-045, 2012-C-072, 2012-C-083, 2012-C-087, 2012-C-088; 2012-C-090; 2012-C-098; 2012-C-099; 2012-C-104; 2012-C-110; 2012-C-117; 2012-C-131; 2012-C-136; 2012-C-138; 2012-C-145; 2013-C-001 as there was no evidence of a violation of the Medical Practice Act or rules. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kovnat and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Case #2012-C-084 RECOMMENDATION was made by Dr. Kankanala to offer physician a stipulated license requiring mandatory participation in MTP for therapy. If physician does not accept the offer, issuance of a Notice of Contemplated Action, based on, but not limited to conviction of an offense and impairment. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kovnat and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Case #2013-C-007 RECOMMENDATION was made by Dr. Kankanala to offer physician a restricted license, mirroring the other state licensure actions. If physician does not accept, a Notice of Contemplated Action will be issued based on, but not limited to, licensure actions in other states. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kovnat and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Case #2013-C-044 RECOMMENDATION was made by Dr. Kankanala to offer physician a voluntary surrender order while under investigation. If physician does not accept issuance of a Notice of Contemplated Action base on, but not limited to, licensure action in other states. **YES:**

Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kovnat and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Case #2013-C-065 RECOMMENDATION was made by Dr. Kankanala to offer physician a stipulated license requiring mandatory participation in MTP and other standard substance abuse stipulations. If physician does not accept a Notice of Contemplated Action will be issued based on, but not limited to, habitual or excessive use of alcohol. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kovnat and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Complaint Committee D:

RECOMMENDATION was made by Dr. Jenkusky to close complaint cases 2011-D-180, 2011-D-232; 2012-D-073, 2012-D-082, 2012-D-089, 2012-D-105 and 2012-D-135 as there was no evidence of a violation of the Medical Practice Act or rules. **YES:** Dr. Weiner; Dr. Miller; Dr. Komadina; Dr. Kankanala; Dr. Kovnat; and Mr. Bourbon. **RECUSED:** Dr. Jenkusky and Ms. Anderson. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Case #2012-D-112 RECOMMENDATION was made by Dr. Jenkusky to offer physician a stipulated license to MTP for monitoring. If physician does not accept offer a Notice of Contemplated Action will be issued based on impairment. **YES:** Dr. Weiner; Dr. Miller; Dr. Komadina; Dr. Kankanala; Dr. Kovnat; and Mr. Bourbon. **RECUSED:** Dr. Jenkusky and Ms. Anderson. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Case #2012-D-055 RECOMMENDATION was made by Dr. Jenkusky to issue a Notice of Contemplated Action based on, but not limited to, injudicious prescribing, prescribing to family members, failure to maintain accurate and complete medical records, misrepresentation on renewal applications, failure to cooperate with the Board; violation of board regulations and impairment. **YES:** Dr. Weiner; Dr. Miller; Dr. Komadina; Dr. Kankanala; Dr. Kovnat; and Mr. Bourbon. **RECUSED:** Dr. Jenkusky and Ms. Anderson. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Case #2013-D-037 RECOMMENDATION was made by Dr. Jenkusky to offer physician the option of voluntarily being assessed by MTP for possible impairment. If physician does not accept the offer, complaint committee recommends physician be evaluated by an Impaired Provider Committee. Case will remain open pending either MTP or IPC report. **YES:** Dr. Weiner; Dr. Miller; Dr. Komadina; Dr. Kankanala; Dr. Kovnat and Mr. Bourbon. **RECUSED:** Dr. Jenkusky and Ms. Anderson. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Case #2013-D-040 RECOMMENDATION was made by Dr. Jenkusky to issue a Notice of Contemplated Action based on, but not limited to conduct unbecoming and failure to report. **YES:** Dr. Weiner; Dr. Miller; Dr. Komadina; Dr. Kankanala; Dr. Kovnat and Mr. Bourbon. **RECUSED:** Dr. Jenkusky and Ms. Anderson. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Case #2012-D-063 RECOMMENDATION was made by Dr. Jenkusky to issue a Notice of Contemplated Action based on, but not limited to, incompetency to practice and conduct unbecoming. **YES:** Dr. Weiner; Dr. Miller; Dr. Komadina; Dr. Kankanala; Dr. Kovnat and Mr. Bourbon. **RECUSED:** Dr. Jenkusky and Ms. Anderson. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Complaint Committee E:

RECOMMENDATION was made by Dr. Weiner to close complaint cases 2012-E-024; 2012-E-139; 2012-E-148 and 2013-E-043 as there was no evidence of a violation of the Medical Practice Act or rules. **YES:** Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Kovnat; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Case #2013-E-012 RECOMMENDATION was made by Dr. Weiner to close this case with an advisory letter referring physician to AMA Code of Ethics provision regarding chaperone. **YES:** Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Kovnat; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Case #2013-E-039 RECOMMENDATION was made by Dr. Weiner to close the case with an advisory letter regarding failure to report as required and warning physician that the basis on which the Colorado action taken was egregious in New Mexico and could lead to licensure action **YES:** Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Kovnat; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Case #2012-E-129 RECOMMENDATION was made by Dr. Weiner for physician to be evaluated by an Impaired Physician Committee. The case will remain open pending an IPC report **YES:** Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Kovnat; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

Case #2013-E-045 RECOMMENDATION was made by Dr. Weiner for the issuance of a Notice of Contemplated Action to deny licensure based on, but not limited to, licensure action being taken in another state. **YES:** Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Kovnat; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

B. Executive Committee Report –

1. Criminal History Hits -There were no criminal history hits to report on this quarter. Criminal history hits will be reported at the February and August meetings.

2. Other cases -The Board reviewed the other cases report compiled by the Executive Committee and **RECOMMENDATION** was made by Dr. Weiner that the Executive Committee Report be accepted. **YES:** Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Kovnat; Mr. Bourbon, Dr. Jenkusky and Dr. Weiner. **ABSENT:** Mr. Wallace. **RECOMMENDATION PASSED.**

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

A. Ramon Espinal, M.D. – Consider exception to 7 year exam rule and grant full medical licensure.

MOTION was made by Dr. Weiner to offer Dr. Espinal a full medical license to practice medicine in New Mexico. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Kovnat; Mr. Bourbon and Dr. Jenkusky. **ABSENT:** Mr. Wallace. **MOTION CARRIED.**

B. Vineela Lavu, MD – Consider exception to 7 year exam rule and grant a full medical license.

MOTION was made by Dr. Weiner to offer Dr. Lavu a full license to practice medicine in New Mexico. **SECONDED** Dr. Jenkusky. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Kovnat; Mr. Bourbon and Dr. Jenkusky. **ABSENT:** Mr. Wallace. **MOTION CARRIED.**

- C. **David Durham, MD – Consider Settlement**
MOTION was made by Dr. Weiner to accept the proposed settlement as presented by Mr. Rubin. **SECONDED** by Ms. Anderson. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala and Dr. Kovnat. **RECUSED:** Mr. Bourbon and Dr. Jenkusky. **ABSENT:** Mr. Wallace. **MOTION CARRIED.**
- D. **Charles Secora, MD – Consider Settlement**
Motion was made by Dr. Weiner to accept the proposed settlement with the addition of requiring a board approved ethics course, to be completed within six (6) months. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky **RECUSED:** Dr. Kovnat and Dr. Komadina. **ABSENT:** Mr. Wallace. **MOTION CARRIED.**
- E. **Frederick Keen, MD – Consider Settlement**
MOTION was made by Dr. Jenkusky to accept the proposed settlement. **SECONDED** by Dr. Miller. **YES:** Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Kovnat; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner **ABSENT:** Mr. Wallace. **MOTION CARRIED.**
- F. **Dannelly Labogin, PSGT – Default Hearing**
Dr. Weiner accepted exhibits 1 and 2 into evidence as presented in the default hearing.
MOTION was made by Dr. Weiner to deny the application for licensure. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Kovnat and Dr. Komadina. **ABSENT:** Mr. Wallace. **MOTION CARRIED.**
- G. **Winifred Chambers, MD – Decision and Order**
MOTION was made by Dr. Weiner to go into Executive Session to discuss matters of licensure and discipline. **SECONDED** by Dr. Miller. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Kovnat and Dr. Komadina. **ABSENT:** Mr. Wallace. **MOTION CARRIED.**

The Board returned to open session. Dr. Weiner stated for the record that Dr. Komadina and Dr. Kovnat were not present during the closed session discussion of the Dr. Chambers case, and that case was the only matter discussed.

MOTION was made by Dr. Jenkusky to accept the Hearing Officer's report with the following amendment: item number 42 will be revised to read "Therefore, while it seems reasonable to offer Dr. Chambers an unrestricted New Mexico medical license, the fact remains that she does not meet the requirements as laid out in the current New Mexico Medical Board's regulations." **SECONDED** by Mr. Bourbon. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Kovnat and Dr. Komadina. **ABSENT:** Mr. Wallace. **MOTION CARRIED.**

MOTION was made by Dr. Jenkusky to deny Dr. Chambers a license to practice medicine in New Mexico. **SECONDED** by Dr. Weiner. **YES:** Dr. Weiner; Dr. Miller;

Ms. Anderson; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Kovnat and Dr. Komadina. **ABSENT:** Mr. Wallace. **MOTION CARRIED.**

6. REPORTS:

A. Chair –

- Dr. Weiner discussed an article, published this morning, regarding New Mexico's shortage of medical care providers. The Legislative Finance Committee (LFC) released a report that stated that New Mexicans could encounter growing problems of access to medical care due to the potential need of 2,000 physicians, 3,000 registered nurses and as many as 800 dentists. With an aging population and expanding insurance coverage under the federal health care law, patients could have much longer waits for a doctor or specialist appointment as demand grows. Up to 172,000 uninsured New Mexicans are expected to receive medical coverage next year. There is a problem of maldistribution of medical providers in the state that will only get worse with the infusion of the newly insured. The article further stated that auditors have recommended that the state Medical Board take a number of steps to increase the number of health care providers; such as expanding the role of physician assistants by giving them more independence to practice outside the supervision of a physician, and reviewing licensing requirements for all health care professionals to eliminate possible barriers for recruiting more providers to New Mexico.

Dr. Komadina stated that when he was a senator he introduced a bill, more than once, that would allow physician assistants (PA) to work more independently. The major opposition came from the PA national association. A change of this nature would help tremendously in rural areas. Mr. Bourbon advised that the American Academy of Physician Assistants will probably continue to oppose giving PA's more independence. It has been an issue at their House of Delegates for more than two decades. The association promotes collaboration and the team concept of physicians and physician assistants working together. Ms. Hart stated that the LFC report and recommendations will likely lead the legislature to again address the issue of independent practice for PAs. The Board should discuss what position they may want to take on this issue before the next legislative session.

- Dr. Weiner expressed concern about the snowball effect of disciplinary action in which multiple states may take action against a licensee based on an action taken in the first state. Dr. Weiner is concerned that a single issue can follow a physician from one state to another, possibly creating a new issue. He thinks it is a huge issue that needs to be looked at very carefully. Dr. Weiner concluded by stating that staff does a great job of sorting out this complexity.

B. Executive Director

- Personnel Issues – Ms. Hart announced that Samantha Breen has accepted the administrative assistant position for the Medical Board office, and although board members are welcome to contact any staff member, Samantha will be board members' primary contact. Samantha's move has created an open position in the licensing division, and active recruitment is currently taking place.

- 72 hour notice of public meetings – Ms. Hart reminded the board that during the last session, the legislature passed a bill that changes the deadline for posting final

meeting agendas from 24 hours to 72 hours. The change becomes effective on June 15, 2013. In general, preparation for meetings will need to begin earlier. Complaint committee meetings will need to be scheduled earlier, as will the development of materials for licensing matters. Any issue requiring a Board vote will need to be finalized well in advance of the agenda deadline. It is likely that the Board will need to use the interim meetings more for licensing matters, to handle the last minute requests.

- Friday meetings attendance – Ms. Hart expressed the need for Board Members to arrange their schedule to be present for Friday meetings. While generally a quorum has been maintained on Friday, attendance on Thursday is much greater. Due to the volume of work conducted by the NMMB at its quarterly meeting, it is necessary to place action items on the agenda for both days. She asked board members to be available by telephone if they could not attend the Friday meeting.

7. **New Business:**

A. **Election of officers-**

Chair - Dr. Kovnat **NOMINATED** Dr. Weiner as Chair and Dr. Jenkusky **SECONDED**. Dr. Komadina **MOVED** to elect Dr. Weiner Chair by acclamation. **SECONDED** by Mr. Bourbon. **Yes:** Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Kovnat; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner. **ABSENT:** Mr. Wallace. **MOTION CARRIED.**

Vice Chair- Mr. Bourbon made a **MOTION** to nominate Dr. Jenkusky as Vice Chair **SECONDED** by Dr. Kovnat. **Yes:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Kovnat and Mr. Bourbon. **RECUSED:** Dr. Jenkusky. **ABSENT:** Mr. Wallace. **MOTION CARRIED.**

Secretary/Treasurer- Dr. Weiner **NOMINATED** Dr. Kovnat as Secretary-Treasurer. **SECONDED** by Dr. Komadina. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Kovnat. **ABSENT:** Mr. Wallace. **MOTION CARRIED.**

B. **Adoption of Open Meetings Resolution-** **MOTION** was made by Dr. Weiner to adopt the Open Meetings Resolution as presented. **SECONDED** by Dr. Miller. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Kovnat; Mr. Bourbon and Dr. Jenkusky. **ABSENT:** Mr. Wallace. **MOTION CARRIED.**

C. Dr. Komadina made a **MOTION** to accept the proposed 2014 meeting schedule with the Thursday meeting to begin at 10:00 am. **SECONDED** by Dr. Weiner. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Kovnat; Mr. Bourbon and Dr. Jenkusky. **ABSENT:** Mr. Wallace. **MOTION CARRIED.**

8. **Compliance Report:**

Ms. Holmes reviewed the board monitored compliance report and provided the current status on all licensees currently under Board orders.

9. **NM MONITORED TREATMENT PROGRAM (MTP):**

Dan Collins, MD, MTP Medical Director, Jon Thayer, MTP Executive Director and Kate Woods, Clinical Director discussed the status of mandatory and voluntary MTP participants.

MOTION was made by Dr. Weiner to go into Executive Session pursuant to Section 10-15-1 (H) and (3) 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; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Kovnat, Mr. Bourbon and Dr. Jenkusky. **ABSENT:** Mr. Wallace. **MOTION CARRIED.**

10. INFORMAL INTERVIEWS:

Daniel Brandt, MD, Deborah Aaron, MD; Bertrand Bassett, MD; Adelfio Fronterotta, MD, Stephanie Hedstrom, MD, Richard Smith, MD; Marc Masotti, MD, John Bray-Morris, MD, Michael Bellas, PA; Richard Lieberman, MD, Julie DiCianno, MD, Timothy Klein, MD, Richard Hempstead, MD, James Cordova, RPSGT, Chandler Morgan, PSGT, Kenneth Bull, MD, Kathleen Van Osten, MD and Jennifer Tso, PA were interviewed in Executive Session regarding current practices and compliance with their board orders. Steven Petrakis, MD was interviewed by teleconference. Richard Rubin, PA, missed his interview.

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.

- Julie DiCianno, MD – Request prescriptive authority for schedules III through V. **MOTION** was made by Dr. Weiner to deny Dr. DiCianno's request for any amendment to the Stipulation on her license. **SECONDED** by Dr. Miller. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Kovnat; Mr. Bourbon and Dr. Jenkusky. **ABSENT:** Mr. Wallace. **MOTION CARRIED.**

- Marc Masotti, MD – Request release from Stipulation **MOTION** was made by Dr. Weiner to release Dr. Masotti from Stipulation. **SECONDED** by Dr. Miller. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Kovnat; Mr. Bourbon and Dr. Jenkusky. **ABSENT:** Mr. Wallace. **MOTION CARRIED.**

- James Cordova, RPSGT – Request release from Stipulation **MOTION** was made by Dr. Weiner to release Mr. Cordova from Stipulation. **SECONDED** by Dr. Miller. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Kovnat; Mr. Bourbon and Dr. Jenkusky. **ABSENT:** Mr. Wallace. **MOTION CARRIED.**

- Robert Knight, MD – Request release from Stipulation
This item was tabled until the August board meeting.

- John Bray-Morris, MD – Request for amended Stipulation **MOTION** was made by Dr. Weiner to deny Dr. Bray-Morris's request for any amendment to the Stipulation on his license. **SECONDED** by Dr. Miller. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Kovnat; Mr. Bourbon and Dr. Jenkusky. **ABSENT:** Mr. Wallace. **MOTION CARRIED.**

Friday, May 17, 2013

The Board reconvened, and Dr. Weiner called the meeting to order at 9:00 am on Friday, May 17, 2013 and a quorum was present.

11. **Larry Loring, R. Ph.**, Executive Director of the Pharmacy Board addressed the Board, and provided a sample of a report that licensing boards could elect to receive from the Pharmacy Board. The report highlighted prescriptions that exceed 200 morphine milligram equivalents per day, as well as those prescriptions that exceed 200 morphine milligrams pills per day in combination with benzodiazepine and other combinations of drugs. Mr. Loring stated that ultimately it will be up to the Medical Board to decide how they would like to receive the report. Mr. Loring stated that the Pharmacy Board has done many upgrades to the PMP program in the last year and they will continue to make improvements.

Ms. Hart stated that the Advisory Council is now at the phase where they are looking at the PMP as an invaluable tool. A part of the Governor's Advisory Council's recommendation is going to be for the Pharmacy Board to provide reports to the licensing boards that reflect what is considered to be a red flag. The Board has to decide what combination of information will best give a complete picture of prescribing habits. Board members agreed that they need to discuss this issue in more detail.

12. **Informal Interview:**

- **Jonathan Hechanova, MD** – Dr. Hechanova appeared with Dr. Michelle Harkins, Division Chief for Pulmonary and Critical Care at UNM. Dr. Hechanova is a fellow at UNM. He explained that he had applied for a full license in New Mexico in January because he thought that was the correct thing to do. Dr. Hechanova did not realize that he needed to get a resident license while his application for a full license was being finalized. When he moved to New Mexico in June 2012 he thought that everything was in order with his application. He began working at UNM before his permanent full license was finalized. However, Dr. Hechanova was granted a resident license. Dr. Weiner explained that the Board had wanted to meet Dr. Hechanova and have him explain what happened; why he was working at UNM without a license.

Dr. Hechanova asked if he needed to report this as an investigation by the New Mexico Medical Board to the California Board. Ms. Hart replied in the negative; the New Mexico Medical Board did not place him under investigation, it along with UNM wanted to meet with him and explain the process and advised him to continue to practice under his resident license until a full license is granted by the Board. Since he was never officially placed under investigation he should not need to report it.

MOTION was made by Dr. Weiner to go into Executive Session pursuant to Section 10-15-1 (H) and (3) 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; Dr. Miller; Ms. Anderson; Dr. Kankanala; Dr. Kovnat and Dr. Jenkusky. **ABSENT:** Mr. Bourbon, Dr. Komadina and Mr. Wallace. **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.

- **Sally D'Angelo, MD-** was interviewed, telephonically, in Executive Session regarding current practices and compliance with her board order.

13. **Reports:**

A. Medical Director –

- FSMB Meeting Report - Dr. La Farge reported that the FSMB had focused on several interesting topics at the annual meeting. Topics included: maintenance of licensure (MOL), but with the new twist of adapting MOL to cover clinically inactive physicians, and non-board-certified physicians. Another focus is now on the ill and the elderly physician, with an eye toward age-specific competency and, perhaps specific evaluations beginning at age 70 for neurological, as well as health and mental fitness. These issues will be pursued further this year. Another topic of discussion was the requirement that CME should be almost entirely practice-specific. The FSMB is also working on developing specific CME modules directed towards physicians who are inactive but who wish to maintain their knowledge base and prepare for re-entry.

Dr. Scott Fishman, author of Responsible Opioid Prescribing spoke at the Foundation fundraising luncheon, and discussed over and under-treatment. Under treatment is still the #1 problem in the US. Practitioners are using the wrong goals in treating patients: the emphasis is on eliminating pain instead of lowering pain and returning the patient to a better functional status even if some pain is still present. This is due, he stated, to physicians' poor training. Dr. Fishman added that 80% of the world's opioids are used in the US. He also emphasized that a critical part of treating patients is to obtain real informed consent, to use the PMP, and to use the risk management approach in managing patients with chronic pain, because they can so easily and quickly slide off into either poor response or into addictions and misuse.

Another topic of discussion of great interest to the attendees was what form of State board licensure was appropriate and practical for athletic team doctors who migrate from one state to another with athletic teams. The FSMB will continue to explore the solution to this challenging issue.

Two special resolutions were presented formally to the House of Delegates. The first resolution dealt with higher standards for unrestricted medical licensure, specifically that all applicants for licensure must complete 36 months of progressive post-graduate training in order to qualify. The FSMB and other stakeholders resolve to examine the benefits as well as the potential harms and unintended consequences that could occur as a result of such a requirement. The second resolution proposed undergraduate medical education should be shortened from four years to three years in duration. The FSMB proposes to study the value of shortening that duration and impact, collectively, on access to care, patient outcomes, and patient safety. Both resolutions passed the House of Delegates.

- Multi-State Licensing Compacts- Such compacts are formal agreements between states that have been successfully utilized to help state governments facilitate a wide range of activities that cross state lines, eliminating the need for federal intervention. The compacts may be national in size (like driver's licenses) or regional, like the Nursing compact. The FSMB will be aggressively studying the development of a multi-state compact model to facilitate license portability. This study will be initiated by July, 2013.

B. Assistant Attorney General & Administrative Prosecutor

- **Recusals by Board Members –** Mr. Rubin advised the Board that at the request of Dr. Kovnat, he and Assistant Attorney General Buzzard took a look at the role of board members who serve on complaint committees, after they make their

recommendation to the Board. They are in agreement that based upon the board's rule that says upon completion of an investigation, the complaint committee shall submit its recommendations to the Board. After submitting the recommendations to the Board the members of the complaint committee shall recuse themselves all through the proceedings in the case. Ms. Buzzard's position is that if you serve on the complaint committee you should not be in the room during closed session when the Board deliberates on whether to accept a settlement proposal, and you should not vote in open session.

Ms. Hart asked if the complaint committee made the recommendation to the Board for an Order or Stipulation, and the licensee requests to be released from that Order, should that complaint committee vote on the release. Mr. Rubin said the complaint committee member should not vote. Ms. Hart asked if a hearing officer is required to make a recommendation. Mr. Rubin answered in the negative.

C. Administrative Prosecutor

- Prosecution Status Report - Mr. Rubin reviewed all pending cases with the Board.

D. Licensing Manager - Ms. Quintana advised the Board that the Hildago Medical Services is requesting that the Board approve their family medicine post graduate training program, contingent upon their ACGME approval which they expect to receive by May 22, 2013

Dr. Kovnat made a **MOTION** to approve the Hildago Medical Services program when they receive their ACGME approval. **SECONDED** by Dr. Weiner. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Kankanala; Dr. Kovnat and Dr. Jenkusky. **ABSENT:** Mr. Bourbon Dr. Komadina; and Mr. Wallace. **MOTION CARRIED.**

E. Financial / HR Manager-

- **FY13 Budget & Revenue Projections - As of March 31 2013-** Ms. Mascarenas reported that the FY13 operating budget is \$1,620,800. Expenditures ending March 31, 2013 are \$1,115,452 or 68.8% percent of the total operating budget. Revenues collected ending March 31, 2013 are \$421,426 or 26% percent of the total operating budget. The Board's cash balance as of May 17, 2013 is \$1,536,800. Ms. Mascarenas processed a \$16,000.00 Within-Program/Category Budget Adjustment Request (BAR) to move funds to cover administrative and litigation expenses through the end of June 2013. The FY14 operating budget was submitted on May 1, 2013, which includes one FTE and an additional \$114,000 increase over the FY13 Operating Budget.

- **RFP** – The Board received two proposals for the Impaired Health Care Provider Treatment program and the review process will be completed by June 2013.

F. Investigation Department

- Status Report – Ms. Dieterich updated the Board on the status of investigation cases and stated that 95 cases have been opened since January 1, 2013, which includes public complaints and board complaints.

Ms. Dieterich requested that board members return the complaint committee CDs by bringing them to the meeting for destruction. Because the CD's contain confidential information, staff needs to make sure that they are destroyed.

- Inactive while under investigation vs. voluntary surrender while under investigation is a terminology issue that staff has been struggling with. When the Board asks someone to go inactive while under investigation, it is really a "surrender", which is disciplinary terminology. But their license status is identified as "inactive", which is not a disciplinary term under the Board's regulations, it is a licensing term. The Board needs to propose some rules under its disciplinary regulations to make the inactive while under investigation a disciplinary term that would distinguished it from the inactive license status that is non-disciplinary. The disciplinary rules task force will be looking at this issue.
- Reinstatement of licensure vs. reapplication for licensure (suspension vs. revocation) – Ms. Dieterich explained that there is an issue involving whether someone who has had disciplinary action against their license, like a suspension, can reinstate the license or if they must reapply for a license. The two processes and the fees for each are very different. And both processes are being used interchangeably. It needs to be determined which scenario is correct. This issue will be looked in to by Ms. Dieterich, Ms. Hart, Mr. Bourbon, Dr. Kovnat and Mr. Rubin.

14. New Business:

- **HB180-Expedited Licensing** – Ms. Quintana advised the Board that the Governor signed House Bill 180, which mandates all licensing entities to expedite licensing for military members and their spouses. The Board needs to promulgate rules and have them enacted by July 1st of this year. Ms. Quintana asked if a board member would like to join her, Ms. Hart and Ms. Holmes on the task force to draft the rules, or if the Board preferred to designate Dr. La Farge. Dr. Weiner designated Dr. La Farge to serve on this committee.

Ms. Hart explained further that the earliest the rules could be heard at public hearing would be in August because they will need to be approved by the Board at the June interim meeting.

15. Old Business:

- A. Medical Cannabis Rules** – Mr. Rubin asked the Board to approve the advertising and scheduling of a hearing on the adoption of the medical cannabis rules.

Dr. Weiner made a **MOTION** to authorize staff to advertise the rules and schedule a hearing. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Kankanala; Dr. Kovnat and Dr. Jenkusky. **ABSENT:** Mr. Bourbon; Dr. Komadina and Mr. Wallace. **MOTION CARRIED.**

- B. Disciplinary Rules Task Force** – Ms. Dieterich reported that a disciplinary rules task force has been established. They will meet soon and will present to the Board at the August meeting. Members of the task force are Dr. Kovnat, Mr. Bourbon, Mr. Rubin, Ms. Hart and Ms. Dieterich.

- C. Pain Management Summits** – Ms. Hart advised the Board that she and Dr. Jenkusky

attended the National Governor's Association's summit. It was well organized and well attended; it was also New Mexico specific. The Governor attended and had a member of her staff at each breakout session.

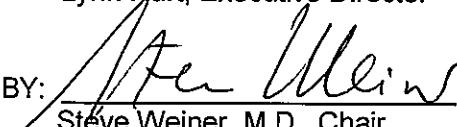
The New Mexico Attorney General is hosting a Pain Management summit next week; Ms. Hart and Mr. Rubin will present.

16. ADJOURN:

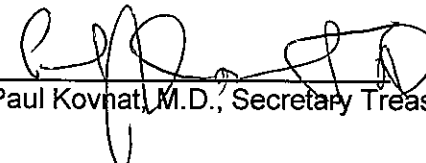
There being no further business scheduled, the meeting was adjourned at 11:25 a.m.

SUBMITTED BY: 
Lynn Hart, Executive Director

DATE: July 1, 2013

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

DATE: June 27, 2013

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

DATE: 6 27 13