

**NEW MEXICO MEDICAL BOARD**  
**Fourth Quarter Meeting**  
**November 21-22, 2013**  
**FINAL MINUTES**

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

**Members Absent:** Dr. Kankanala (November 22, 2013 only)  
Mr. Wallace (November 22, 2013 only)

**Others Present:** Lynn Hart, Executive Director  
Grant La Farge, M.D., Medical Director  
Sondra Frank, Board Attorney  
Dan Rubin, Administrative Prosecutor  
Gayle Mascarenas, CFO/HR Manager  
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 Meeting of the New Mexico Medical Board to order at 8:30 a.m. and a quorum was determined to be present.

**2. APPROVAL OF AGENDA**

**MOTION** was made by Dr. Weiner to approve the Agenda. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Ms. Anderson; Dr. Komadina, Dr. Kankanala; 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 October 3, 2013 Interim Meeting as presented. **SECONDED** by Mr. Wallace. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

**Dr. Beaudette: ABSENT for first three agenda items.**

**EXECUTIVE SESSION: COMPLAINT COMMITTEE 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; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; 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 complaint cases; 2013-A-037; 2013-A-076 and 2013-A-205 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; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **RECOMMENDATION PASSED.**

**CASE #2012-A-061 RECOMMENDATION** was made by Dr. Jenkusky to close this case as there was no evidence of a violation of the Medical Practice Act and to issue an advisory letter cautioning physician on appropriate evaluations for patients on controlled substances. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **RECOMMENDATION PASSED.**

**CASE #2012-A-092 RECOMMENDATION** was made by Dr. Jenkusky to close this case as there was no evidence of a violation of the Medical Practice Act and to issue an advisory letter recommending that physician follow up with MTP when needed. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **RECOMMENDATION PASSED.**

**CASE #2013-A-143 RECOMMENDATION** was made by Dr. Jenkusky to close this case as there was no evidence of a violation of the Medical Practice Act and to issue an advisory letter regarding reporting adverse action to the NMMB as required. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **RECOMMENDATION PASSED.**

**CASES #2013-A-062; 2013-A-171; 2013-A-173 RECOMMENDATION** was made by Dr. Jenkusky for summary suspension based on the immediate danger to the public and issuance of Notice of Contemplated Action based on but not limited to, injudicious prescribing and failure to maintain accurate and complete medical records on patients. Alternatively, in lieu of summary suspension, physician will be offered the chance to a restriction on prescribing all controlled substances pending the final resolution after the hearing on the NCA. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **RECOMMENDATION PASSED.**

**CASE #2013-A-156 RECOMMENDATION** was made by Dr. Jenkusky offering Resident a formal letter of reprimand based on, but not limited to conduct unbecoming. If Resident does not accept, a Notice of Contemplated Action will be issued based on the same. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **RECOMMENDATION PASSED.**

**CASE #2013-A-031 RECOMMENDATION** was made by Dr. Jenkusky to issue a Notice of Contemplated Action based on, but not limited to, conduct likely to deceive the public, obtaining a fee by fraud and conduct unbecoming in a person licensed in NM. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **RECOMMENDATION PASSED.**

**CASE #2013-A-142 RECOMMENDATION** was made by Dr. Jenkusky to offer physician a letter of reprimand based on, but not limited to, violation of drug law and dishonesty. If she does not accept, a Notice of Contemplated Action will be issued based on the same. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **RECOMMENDATION PASSED.**

**CASE #2013-A-185 RECOMMENDATION** was made by Dr. Jenkusky for summary suspension based on physician being an imminent danger to the public and issuance of Notice of Contemplated Action based on, but not limited to, licensure action in another state, manifest incapacity to practice, misrepresentation on application. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr.

Kankanala; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **RECOMMENDATION PASSED.**

**CASE 2013-A-201 RECOMMENDATION** was made by Dr. Jenkusky that Physician Applicant be ordered to be assessed by the NM Monitored Treatment Program, the case will remain open until receipt of assessment report and then will return to the Board for licensure determination. **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **RECOMMENDATION PASSED.**

#### **COMPLAINT COMMITTEE B**

**RECOMMENDATION** was made by Dr. Komadina to close complaint case #2013-B-128 as there was no evidence of a violation of the Medical Practice Act or rules. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Miller and Dr. Komadina. **RECOMMENDATION PASSED.**

**CASE #2012-B-158 RECOMMENDATION** was made by Dr. Komadina to close this case as there was no evidence of a violation of the Medical Practice Act and to issue an advisory letter reminding physician of the Board's Regulations on prescribing controlled substances for chronic pain. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Miller and Dr. Komadina. **RECOMMENDATION PASSED.**

**CASE #2012-B-161 RECOMMENDATION** was made by Dr. Komadina to close this case as there was no evidence of a violation of the Medical Practice Act and to issue an advisory letter to physician regarding appropriate medical record keeping using the EMR and suggest that physician review the proper use of EMR with practice manager. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Miller and Dr. Komadina. **RECOMMENDATION PASSED.**

**CASE #2013-B-034 RECOMMENDATION** was made by Dr. Komadina that physician be offered a Stipulated Order requiring that his license be placed on retired status while under investigation and that the statute of limitations is waived on the case in the chance he applies for reinstatement of licensure. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Miller and Dr. Komadina. **RECOMMENDATION PASSED.**

**CASE #2013-B-112 RECOMMENDATION** was made by Dr. Komadina that physician be offered a stipulation of licensure requiring mandatory participation in the NM Monitored Treatment Program and placing license on inactive status until approved to return to work by both NM Monitored Treatment Program and the Board. If physician does not accept, a Notice of Contemplated Action will be issued based on, but not limited to, habitual and excessive use of substances and alcohol and manifest incapacity to practice. Summary suspension of license will also be issued based on immediate danger to public. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Miller and Dr. Komadina. **RECOMMENDATION PASSED.**

**CASE #2013-B-153 RECOMMENDATION** was made by Dr. Komadina offering physician a stipulation of licensure requiring mandatory participation in the NM Monitored Treatment Program and standard substance abuse stipulations. If physician does not accept, a Notice of Contemplated Action will be issued based on, but not limited to, habitual and/or excessive use of alcohol. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Miller and Dr. Komadina. **RECOMMENDATION PASSED.**

#### **COMPLAINT COMMITTEE C**

**RECOMMENDATION** was made by Dr. Kankanala to close complaint case #2013-C-018; 2013-C-181 as there was no evidence of a violation of the Medical Practice Act or rules **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **RECOMMENDATION PASSED.**

**CASE #2013-C-127 RECOMMENDATION** was made by Dr. Kankanala to close this case as there was no evidence of a violation of the Medical Practice Act and to issue an advisory letter to physician regarding the state's law requiring the reporting of suspected child abuse by a healthcare provider.

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

**CASE #2013-C-141 RECOMMENDATION** was made by Dr. Kankanala to close this case as there was no evidence of a violation of the Medical Practice Act and to issue an advisory letter regarding self prescribing and the Board's ethics regulations on the same. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **RECOMMENDATION PASSED.**

**CASE #2013-C-033 RECOMMENDATION** was made by Dr. Kankanala for issuance of a Notice of Contemplated Action based on, but not limited to, licensure action in another state, failure to report and failure to cooperate with a Board investigation. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **RECOMMENDATION PASSED.**

**CASE #2013-C-098 RECOMMENDATION** was made by Dr. Kankanala to offer a stipulated license requiring mandatory participation in NM Monitored Treatment Program and standard substance abuse stipulations. If physician does not accept, issuance of a Notice of Contemplated Action is recommended based on, but not limited to, habitual and excessive use of alcohol. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **RECOMMENDATION PASSED.**

**CASE #2013-C-115 RECOMMENDATION** was made by Dr. Kankanala to refer physician to UNM to complete a mini-sabbatical, and if accepted by UNM, the Board will issue physician applicant a resident license that will be stipulated to the NM Monitored Treatment Program. Alternatively, physician applicant may enroll in another mini-sabbatical, but must be first approved by the Board and his application will be held until successful completion of same. Alternatively, physician may withdraw his application while under investigation. If physician applicant does not accept any option, a Notice of Contemplated Action will be issued to deny licensure based on, but not limited to, incompetency to practice. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **RECOMMENDATION PASSED.**

**CASE #2013-C-117 RECOMMENDATION** was made by Dr. Kankanala offering physician assistant a formal letter of reprimand based on, but not limited to, misrepresentation on application for licensure. If PA does not accept, NCA will be issued based on the same. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **RECOMMENDATION PASSED.**

**CASE #2013-C-138; 2013-C-157; 2013-C-166 RECOMMENDATION** was made by Dr. Kankanala to issue a summary suspension based on physician's imminent danger to the public, a Notice of Contemplated Action based on, but not limited to, conduct likely to harm the public, manifest incapacity to practice, failure to provide medical records to patients, and patient abandonment, and to order an impaired physician committee evaluation. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **RECOMMENDATION PASSED.**

**CASE #2013-C-145 RECOMMENDATION** was made by Dr. Kankanala to offer physician a stipulated order mirroring Georgia Medical Board's licensure conditions if physician plans to work in NM. If physician does not plan to work in NM, complaint committee recommends offering physician a chance to place license on inactive status while under investigation and waive the statute of limitations on the Board's case. If physician does not accept either option, Notice of Contemplated Action will be issued based on, but not limited to, licensure action in another state. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **RECOMMENDATION PASSED.**

**CASE #2013-C-187 RECOMMENDATION** was made by Dr. Kankanala to offer physician assistant a stipulated license mirroring Colorado's stipulations and require mandatory participation in NM Monitored Treatment Program. Physician assistant will also be offered a separate formal letter of

reprimand based on misrepresentation on her application and failure to report. If physician assistant does not accept, a Notice of Contemplated Action will be issued based on, but not limited to, licensure action in another state, habitual and excessive use of alcohol and substances, misrepresentation on applications and failure to report. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **RECOMMENDATION PASSED.**

**CASE #2013-C-189 RECOMMENDATION** was made by Dr. Kankanala to close this case as there was no evidence of a violation of the Medical Practice Act and to issue an unrestricted license and an advisory letter regarding self prescribing and the Board's ethics regulations on the same. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **RECOMMENDATION PASSED.**

#### **COMPLAINT COMMITTEE D**

**RECOMMENDATION** was made by Ms. Anderson to close complaint case #2012-D-130; 2012-D-171; 2013-D-048; 2013-D-049 as there was no evidence of a violation of the Medical Practice Act or rules. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **RECOMMENDATION PASSED.**

**CASE #2013-D-126 RECOMMENDATION** was made by Ms. Anderson to close the case with a very strong warning letter notifying physician that failure to cooperate with a Board investigation is a violation of the Medical Practice Act and if it happens in the future licensure action will be initiated against physician. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **RECOMMENDATION PASSED.**

**CASE #2013-D-137 RECOMMENDATION** was made by Ms. Anderson to close the case with a strong advisory letter on prescribing and treating family members. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **RECOMMENDATION PASSED.**

**CASE #2013-D-086 RECOMMENDATION** was made by Ms. Anderson offering physician a stipulation of licensure to require participation in the NM Monitored Treatment Program and placing his license on inactive status until cleared to return to the practice of medicine by NM Monitored Treatment Program and the Board. Physician must comply with further treatment as recommended by all evaluators. If physician does not accept, a summary suspension will be issued based on physician being an imminent danger to the public and a Notice of Contemplated Action will be issued based on, but not limited to, conduct likely to harm the public. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **RECOMMENDATION PASSED.**

**CASE #2013-D-123 RECOMMENDATION** was made by Ms. Anderson offering physician a formal letter of reprimand, along with additional required education on treating chronic pain patients to be completed within 6 months at ECHO or CPEP. If physician does not accept, a Notice of Contemplated Action will be issued based on, but not limited to, injudicious prescribing and failure to maintain accurate and complete medical records. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **RECOMMENDATION PASSED.**

#### **COMPLAINT COMMITTEE E**

**RECOMMENDATION** was made by Dr. Weiner to close complaint case #2013-E-019; 2013-E-035; 2013-E-159 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. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner and Mr. Wallace. **RECOMMENDATION PASSED.**

**CASE #2013-E-162 RECOMMENDATION** was made by Dr. Weiner to place license on inactive status while obtaining an evaluation by an Impaired Physician Committee. Case will remain open until receipt of report and then further licensure action will be determined. If physician refuses a summary suspension will be issued based on physician being an imminent danger to the public and a Notice of

Contemplated Action will be issued based on, but not limited to manifest incapacity to practice and conduct likely to harm. **YES:** Mr. Wallace; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner. **RECOMMENDATION PASSED.**

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

**Tatsuya Noril, MD – Consider exception to 7-year exam rule and grant full license**

**MOTION** was made by Dr. Weiner to accept Dr. Noril's request for an exception to the 7-year exam rule and **GRANT** a full unrestricted license to practice medicine. **SECONDED** by Ms. Anderson. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED**

**Margaret Western, MD – Consider Settlement – Case No. 2013-024**

The Administrative Prosecutor presented a proposed settlement of a pending prosecution in Case # 2013-024. The Administrative Prosecutor stated that Dr. Western and her counsel, the Board's complaint committee originally assigned to this matter, and the Administrative Prosecutor had reviewed and recommend this proposed settlement, which would reprimand Dr. Western for the specific violations of the Medical Practice Act identified therein, and impose additional CME requirements upon Dr. Western. **MOTION** was made by Dr. Weiner to accept the amended proposed settlement that includes the specific matters of the reprimand, additional CME requirements, and requirement of the **RESPONDENT** to appear before the Board within 6 months from the date of the order. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Miller and Dr. Komadina. **MOTION CARRIED.**

**Molly Hutsinpillier, MD – Consider Settlement – Case No. 2013-029**

The Administrative Prosecutor presented a proposed settlement of a pending prosecution in Case # 2013-029. The Administrative Prosecutor stated that Dr. Hutsinpillier, the Board's complaint committee originally assigned to this matter, and the Administrative Prosecutor had reviewed and recommend this proposed settlement, which would allow Dr. Hutsinpillier to retire her license while under investigation, and waive the two-year statute of limitations on potential future prosecution of any matters currently under investigation. **MOTION** was made by Dr. Weiner to accept the proposed settlement as presented by Mr. Rubin. **SECONDED** by Ms. Anderson. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Dr. Komadina; Dr. Kankanala; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Dr. Jenkusky and Ms. Anderson. **MOTION CARRIED.**

**Adrian Gollas, MD – Amend Decision and Order – Case No. 2011-046**

Board Counsel, Sondra Frank, informed the Board that on appeal the New Mexico First Judicial Court upheld the Board's final order that reprimanded Dr. Gollas, with the exception that the Court ordered the Board to remove any references to "fraud" from both the Board's decision and the National Practitioner Databank. **MOTION** was made by Dr. Weiner to amend the order with the word "fraud" removed as it was not supported by the facts of the case **SECONDED** by Mr. Wallace. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Kankanala; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Dr. Miller; Dr. Komadina and Mr. Bourbon. **MOTION CARRIED.**

**EXECUTIVE SESSION: MARK WALDEN, MD – CASE #2013-009**

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

**OPEN SESSION**

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

6. **ACTIONS RELATED TO EXECUTIVE SESSION**

**Mark Walden, MD – Case #2013-009 Review Promises Evaluation Report**

**MOTION** was made by Dr. Jenkusky to accept the recommendations from the Promises Evaluation Service, especially as noted on Page 7, items number 1,3,4,5 and 6 and no recommendation be made on item 2 and that in lieu of item number 5. Respondent shall attend the Center for Personal Education for Physicians (CPEP) program to evaluate and make recommendations regarding Respondent's competency. The CPEP Program shall be completed within 6 months. Until such time, physician's license will remain suspended until successful completion and receipt of the CPEP report. If physician does not do so, Board retains the option of revoking license. **SECONDED** Mr. Wallace. **YES:** Dr. Jenkusky; Mr. Wallace; Dr. Miller; Dr. Komadina; Dr. Kankanala; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Dr. Weiner and Ms. Anderson.

7. **CHAIR REPORT**

Dr. Weiner informed the Board of the suspicious death of one of the physicians that was being monitored by the Board.

**EXECUTIVE SESSION: EXECUTIVE DIRECTOR REPORT AND NON-MTP/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 and pursuant to Section 10-15-1 (H) (2) of the Open Meetings Act to discuss limited personnel issues. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

**Executive Director Report:**

Ms. Hart presented her report to the Board.

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

Ms. Dieterich reviewed the compliance report and provided the status on licensees.

**NM Monitored Treatment Program (MTP)**

John Thayer of the NM Monitored Treatment Program was present to discuss the status of mandatory MTP participants and to answer any questions by the Board.

**Informal Interviews:**

Deborah Aaron, MD; Daniel Brandt, MD; Adelfio Fronterotta, MD; Jennifer Tso, PA; Michael Bellas, PA; Mary Albers, PA; Chandler Morgan, PSQT; Julie DiCianno, MD; Ralph Hansen, MD; Michael Lente, PA; Sally D'Angelo, MD; John Bray-Morris, MD; Richard Smith, MD; Sudha Kailas, MD; Richard Lieberman, MD; Kathleen Van Osten, MD; David Stalker, MD; David Durham, MD and Richard Hempstead, MD (teleconference) were interviewed in Executive Session regarding current practices and compliance with their Board orders.

**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.

8. **ACTIONS RELATED TO EXECUTIVE SESSION**

**Mary Albers, PA – Request Release from Board Stipulation**

**MOTION** was made by Dr. Weiner to release Ms. Albers from the Board Stipulation **SECONDED** by Dr. Jenkusky. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

**Adelfio Fronterotta, MD – Request to Reinstate Prescriptive Authority**

**MOTION** was made by Dr. Weiner to reinstate Dr. Fronterotta's prescriptive authority **SECONDED** by Dr. Jenkusky. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

**Michael Bellas, PA – Request to Reinstate Prescriptive Authority**

**MOTION** was made by Dr. Weiner to reinstate Mr. Bellas prescriptive authority **SECONDED** by Dr. Jenkusky. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

**Elliot Marcus, MD - Modification of Board Order**

**MOTION** was made by Dr. Weiner to modify Dr. Marcus' Board order as stated in the Unopposed Motion to Amend Order. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

**John Bray Morris, MD – Request for Approval of Practice Plan**

**MOTION** was made by Ms. Anderson to **DENY** Dr. Bray-Morris request for approval of practice plan and order the physician to submit a plan that requires him to work under the supervision of an on-site monitor who is an MD with an active unrestricted New Mexico medical license and who has an active DEA registration. The plan shall require the MD work-site/on-site monitor to complete a monthly report on form supplied by the Board. The Board shall take expedited action to consider the plan submitted. Additionally, physician is ordered to remain in compliance with MTP and to report to the Board every three months. Physician may not prescribe any controlled substances until further order of the Board and physician may seek reconsideration of this order in twelve months. **SECONDED** by Dr. Weiner. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

**9. ADJOURN:**

Dr. Weiner adjourned the first day [November 21, 2013] of the November Regular Board Meeting at 5:30 p.m.

**Friday, November 22, 2013**

The Board reconvened, and Dr. Weiner called the meeting to order at 9:05 a.m. on Friday, November 22, 2013 and a quorum was determined present.

**10. REPORTS:**

**Medical Director:**

Dr. La Farge updated the Board on the outcome of the meeting of the Interim Legislative Health and Human Services committee on November 7, 2013. He and Dan Rubin had attended, and the "Advanced Practice Chiropractors" (Perlstein and Jones) again presented their previous plan to act as Primary Health Care practitioners and to prescribe for and treat patients with a virtually unlimited formulary of drugs. Their statements about the equivalency of the first two years of Chiropractic training being equivalent to that of MD and DO schools, and about the validity of 90 additional hours of training being sufficient to meet the educational and training needs for prescribing the expanded formulary were met with significant criticism from several members of the Legislative committee, including Representative Terry McMillan, MD (Dona Ana). He, and several others, pointed out that 90 hours of education and training are inadequate (Dr. La Farge commented that the prescribing Psychologists had require 930 hours for prescribing just the psychotropic drugs), and that the first two years of medical and chiropractic schools are not equivalent; further, medical schools are Accredited by the AMA Liaison Committee on Medical Education (LCME) and the American Association of Medical Colleges. Drs. Perlstein and Jones were uncertain about accreditation of the Chiropractic schools, none of which currently have training in pharmacology equivalent to medical school or to what the Advanced Practice Chiropractors wish to prescribe. In short, the Legislative Committee was not encouraging in its reception of their proposal.

Ms. Hart then added that the Medical Board under current law must review and approve the Chiropractic school and the formulary that the Advanced Practice Chiropractors would be authorized to prescribe. The school originally designated no longer exists, and much of the formulary proposed has been disapproved by the Medical and Pharmacology Boards. Ms. Hart added that the proposed formulary bears no resemblance to what is commonly prescribed by primary care practitioners.



Mr. Rubin then added that Medical Marijuana was another topic at the Legislative meeting. He stated that there was a proposal presented to add PTSD (Post-Traumatic Stress Disorder) to the list of qualifying statutory conditions. Dr. Jenkusky informed the Board that at the last meeting of the American Psychiatric Association the Board of Trustees approved a policy statement saying that there is no justifiable, scientific reason for the use of any medical marijuana. He further stated that there is no research or evidence that supports its use for PTSD, however there is contrary, solid evidence that it may cause psychotic episodes. Ms. Hart concluded by stating that the legislation is egregious in this regard, and that she hopes that it will be defeated.

**Board Attorney:**

Sondra Frank, Board Attorney stated that the lease for the office space at 2055 South Pacheco is being re-negotiated and that it is going very well. She is working on negotiating a lower rate and also acquiring the space previously vacated by the NM Commission for the Deaf. The goal in acquiring the extra space is so that the Board can retain our records as we can no longer take them to the State Records and Archives Department.

**Licensing Manager:**

Amanda Quintana requested that the Board begin accepting FCVS profiles for Physician Assistant applications. The FCVS includes core credentials, which are PA Education, Post Graduate Training, if applicable and NCCPA certification. **MOTION** was made by Dr. Weiner to accept the FCVS profiles for Physician Assistants. **SECONDED** by Dr. Komadina. **YES:** Dr. Weiner; Mr. Wallace; Dr. Miller; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon; Dr. Jenkusky. **MOTION CARRIED.**

**CFO/HR Manager:**

**Budget / Revenue Status** - Gayle Mascarenas, HR Manager/CFO reported that for the first quarter of Fiscal Year 14, the Board has expended \$429,500 (25%) and collected \$275,000 (16%). The current cash balance is approximately \$2,000,000. The current year expenditures for administrative hearings/litigation are approximately \$6,000 with \$20,000 committed. Ms. Mascarenas stated that based on the current balance a budget adjustment request will need to be done in between categories in FY14.

**Public Information Officer:**

Mr. Rubin reported that there were 4 pending requests for public documents, 3 of which have already been addressed and Ms. Frank is working on the last one.

**Investigations:**

Ms. Dieterich informed the Board that Leann Lovato has left her position and transferred to another agency. Amanda Chavez has moved into the advanced investigator position. The vacant investigator position will be advertised.

**Administrative Prosecutor:**

**Prosecution Status Report** – Mr. Rubin reported on the status of pending administrative prosecution cases and provided an update.

**George Schwartz, MD – Lawsuit** - The case is currently in the discovery phase.

**Richard Rubin, PA – Lawsuit** -The case is currently dismissed in Federal District Court.

**Nicholas Nardaccl, MD – Appeal** - An appeal has been filed in District Court and a motion to stay is currently pending.

**Pawan Jain, MD – Appeal** - A hearing and oral arguments on the merits of the case is set for December 20, 2013 in Las Cruces.

**11. OLD BUSINESS**

**FSMB Compact License** – Ms. Hart summarized the FSMB's compact license effort and the Board's current involvement. FSMB hired The National Council of State Governments, a group that creates model legislation for states to enact. They recommended one national compact, instead of state-to-state or regional compacts. She stated that the idea was neither efficient nor effective. The group presented eight to nine principles, however, the principals left many questions unanswered. The idea is

that a physician would have to have a "squeaky clean" record to qualify for a compact license. This has been referred to as a "platinum" license. Ms. Hart further stated that she does not believe that a compact license is necessary at all, and that the Board's licensing team has done a great job already in expediting licensure. Mr. Bourbon stated that he was concerned because the presentation by the FSMB was essentially a non-medical model and that there may be a difference of opinion among the states.

**Scope of Practice Discussion** - Ms. Frank stated to the Board that there has been discussion regarding physicians practicing acupuncture. She informed the Board that she would do her best to have her interpretation of this issue ready for the next Board meeting.

**Physician Assistant Legislation – PAs as primary care providers** – Mr. Bourbon stated that there is a tentative proposal for legislation to remove the administrative burden of medical supervision. Supporters feel that this will enhance the ability of PAs to not only practice more autonomously in rural areas but also remove the necessity of having to go through the burden of re-registering their supervising physicians which happens very frequently for a lot of PAs. There are ongoing talks with the Academy of Physician Assistants to address the shortage of primary care PAs in New Mexico as well as to revise the PA Practice Act.

**Senator Udall's Legislation** – Dr. Jenkusky informed the Board that Senator Udall would like to put forth legislation in regard to the overuse of opioids and resulting accidental deaths. A roundtable discussion took place in Los Lunas, New Mexico. Members of the discussion were provided with a copy of the bill that has already been submitted. The bill would direct the Human Services Department to provide grants for states to enhance their PMP programs, to direct the federal government to begin to use the PMP, and to provide a grant program to promote education regarding the misuse of opioids. Dr. Jenkusky stated that the bill is very well-meaning, however, it will require funding. Ms. Hart stated that New Mexico is already doing most of what is in the bill, and that funding would be great for promoting the education and enhancing the PMP.

12. **OVERVIEW OF FEDERAL DRUG LAWS–CONTROLLED SUBSTANCE ACT–DEA PRESENTATION**  
Lorena Rodriguez, Diversion Investigator for the Drug Enforcement Administration presented the Board with an overview of the Federal Drug Laws and the Controlled Substance Act. Ms. Rodriguez discussed accountability for distribution of controlled substances, and who is required to have a DEA Registration. She further discussed drug diversion and the DEA's goals. The Board then had a long discussion with Ms. Rodriguez regarding various laws and to issues. Specifically, Dr. Jenkusky asked if a patient can acquire a prescription and maintain it at a physician's office for the physician to dispense under observation. Ms. Rodriguez stated that it would be illegal as the physician would be in possession of a controlled substance not prescribed to that physician. The correct legal process would be to order the medication and maintain it within the physician's stock, maintaining record and inventory of it, and then dispense it just as a pharmacy would.

Ms. Rodriguez provided Board members with informational material for them to distribute to their patients and/or keep in their offices. The Board thanked Ms. Rodriguez for attending.

#### **RULE HEARING**

Dr. Weiner called the Rule Hearing to Order at 11:30 a.m. and a Board quorum was present.

The following rules were considered: **16.10.2.9 (B)(4) NMAC Physicians: Licensure Requirements by Examination; 16.10.2.10 (B)(4) NMAC: Licensure by Endorsement; 16.10.15.9 (D) NMAC Physician Assistants; Licensure Requirements for PA's; 16.10.15.7 (M) NMAC Physician Assistants; Amend Definition of Supervising Physician**

Ms. Quintana presented the proposed rule changes to the Board as follows:

#### **16.10.2.9 (B)(4) NMAC - Physicians: Licensure Requirements by Examination**

Change required work experience verification for Physicians from 5 years to 2 years for licensure by Exam

**16.10.2.10 (B)(4) NMAC – Physicians: Licensure by Endorsement**

Change required work experience verification for Physicians from 5 years to 3 years for licensure Endorsement

**16.10.15.9 (D) NMAC – Physician Assistants; Licensure Requirements for PA's**

Change required work experience verification from 5 years to 2 years for Physician Assistants

Ms. Dieterich presented the proposed rule change to the Board as follows:

**16.10.15.7 (M) NMAC – Physician Assistants; Amend Definition of Supervising Physician**

Amend Supervising Physician definition to add that a physician under an active monitoring contract with MTP be allowed to act as a supervising physician to physician assistants, not to include a physician whom have a restriction in addition to monitoring.

**The Rule Hearing was adjourned and at 11:37 a.m.**

Dr. Weiner reconvened the Regular Board Meeting at 11.45 a.m. and a Board quorum was present.

**ADOPTION OF RULES**

**MOTION** was made by Dr. Weiner to **ADOPT** the proposed rule changes to 16.10.2.9 (B)(4) NMAC; 16.10.2.10 (B)(4) NMAC; 16.10.15.9 (D) NMAC; 16.10.15.7 (M) NMAC **YES:** Dr. Weiner; Dr. Miller; Ms. Anderson; Dr. Komadina; Mr. Bourbon and Dr. Jenkusky **ABSENT:** Mr. Wallace; Dr. Kankanala and Dr. Beaudette **MOTION CARRIED**

**13. New Business**

**CPEP** – Ms. Hart stated that she would like the Board to receive a thorough overview of CPEP, its many programs and its potential benefits to the Board. She further stated that she would like to invite CPEP representatives to come to New Mexico to give a presentation at the Board's February meeting.

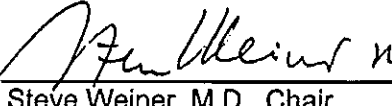
**Rule 16.10.8.8 (L)(6) – Consider amending Ethics Regulation**


Dr. La Farge made note to the Board that the Department of Health is asking for changes to the Ethics Regulation. Ms. Hart and the Board agreed to wait to amend the rule until the May Board meeting.

**14. ADJOURN**

There being no further business, **MOTION** was made by Dr. Weiner to adjourn the Meeting at 11:50 a.m.

SUBMITTED BY:  DATE: 01/10/14  
Lynn Hart, Executive Director

APPROVED BY:  DATE: 01/09/2014  
Steve Weiner, M.D., Chair

APPROVED BY:  DATE: 01/13/14  
Steven Jenkusky, M.D., Vice Chair