

**NEW MEXICO MEDICAL BOARD**  
**Regular Board Meeting**  
**November 13-14, 2014**  
**FINAL MINUTES**

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

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

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

Dr. Weiner called the Regular Board Meeting of the New Mexico Medical Board to order at 8:05 a.m. and a quorum was present. Dr. Weiner informed the Board that this would be Dr. Kankanala's last Board Meeting as he is retiring. He went on to thank him for all of his efforts during his tenure with the Board.

**2. APPROVAL OF AGENDA**

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

**3. APPROVAL OF MINUTES**

**MOTION** was made by Dr. Weiner to accept and approve the minutes of the September 25, 2014 Interim Board Meeting as presented. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **ABSENT:** Dr. Beaudette. **MOTION CARRIED.**

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

**MOTION** was made by Dr. Weiner to go into Executive Session pursuant to Section 10-15-1(H) (1) of the Open Meetings Act to discuss matters pertaining to the issuance, suspension, renewal or revocation of a license and disciplinary matters. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **ABSENT:** Dr. Beaudette. **MOTION CARRIED.**

**OPEN SESSION**

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

#### 4. ACTIONS RELATED TO EXECUTIVE SESSION

##### **Complaint Committee A**

**RECOMMENDATION** was made by Dr. Jenkusky to **CLOSE** Case #2013-A-208; #2013-A-236; #2014-A-008; #2014-A-011; #2014-A-012; #2014-A-018; #2014-A-029; #2014-A-031; 2014-A-036; #2014-A-077; #2014-A-083; #2014-A-094; #2014-A-103 and #2014-A-129 **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **MOTION CARRIED.**

**RECOMMENDATION** was made by Dr. Jenkusky to **CLOSE** Case #2014-A-032 with an Advisory Letter regarding appropriate patient communication. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **MOTION CARRIED.**

**RECOMMENDATION** was made by Dr. Jenkusky to **CLOSE** Case #2014-A-082 with an Advisory Letter regarding patient communication and strongly recommending that physician enroll in a recordkeeping course due to the substandard quality of his patient records. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **MOTION CARRIED.**

**Case #2013-A-094 RECOMMENDATION** was made by Dr. Jenkusky to offer physician a stipulated license to physician requiring mandatory participation in MTP to include psychotherapy and worksite monitoring. If physician does not accept offer, a Notice of Contemplated Action to deny reinstatement of licensure will be issued based on, but not limited to, manifest incapacity to practice. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **MOTION CARRIED.**

**Case #2014-A-002 and Case #2014-A-071RECOMMENDATION** was made by Dr. Jenkusky to offer physician a stipulated order requiring him to retire his medical license while under investigation. If physician does not accept, a Notice of Contemplated Action will be issued based on, but not limited to, violation of a board order, incompetency to practice, failure to maintain legible, complete medical records, injudicious prescribing and conduct unbecoming. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **MOTION CARRIED.**

**Case #2014-A-070 RECOMMENDATION** was made by Dr. Jenkusky to offer physician a stipulated license requiring mandatory participation in MTP, and the issuance of an advisory letter on her failure to report, failure to provide full disclosure to the Board. If physician refuses the stipulated licensure, then a Notice of Contemplated Action will be issued based on, but not limited to, habitual or excessive use of alcohol, failure to report, dishonesty and conduct unbecoming. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **MOTION CARRIED.**

**Case #2014-A-090 RECOMMENDATION** was made by Dr. Jenkusky to offer physician a stipulated license to MTP and requiring physician to place license on inactive status. If physician does not accept, the a Notice of Contemplated Action will be issued based on, but not limited to, habitual and excessive use of controlled substances, injudicious prescribing, failure to maintain medical records, violation of a drug law, and conduct likely to harm. A summary suspension order will simultaneously be issued with the NCA based on his immediate danger to the public. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **MOTION CARRIED.**

**Case #2014-A-154 RECOMMENDATION** was made by Dr. Jenkusky to offer physician a stipulated license to MTP requiring mandatory participation for psychiatric care and monitoring. If physician does not accept, a Notice of Contemplated Action to deny licensure will be issued based on, but not limited to, manifest incapacity to practice and interaction with others that could adversely affect patients. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Dr. Komadina; Dr. Kankanala; Dr. Beaudette and Mr. Bourbon. **RECUSED:** Mr. Wallace and Dr. Jenkusky. **MOTION CARRIED.**

### **Complaint Committee B**

**RECOMMENDATION** was made by Dr. Spence to **CLOSE** Case #2013-B-090; #2013-B-091; #2013-B-161; #2013-B-167; #2013-B-168; #2013-B-179; #2013-B-199; #2013-B-211; #2014-B-091; #2014-B-096; #2014-B-102 and #2014-B-126 **YES:** Dr. Weiner; Ms. Anderson; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Spence and Dr. Komadina. **MOTION CARRIED.**

**RECOMMENDATION** was made by Dr. Spence to **CLOSE** Case #2013-B-135 with an Advisory Letter to the clinic reminding them of the Board's Regulation on leaving a practice, medical records and notifying patients of same. **YES:** Dr. Weiner; Ms. Anderson; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Spence and Dr. Komadina. **MOTION CARRIED.**

**RECOMMENDATION** was made by Dr. Spence to **CLOSE** Case #2014-B-019 with strongly worded advisory letter regarding the Board's Regulation on prescribing controlled substances for chronic pain and warning him that any more complaints received by the Board will result in licensure action. **YES:** Dr. Weiner; Ms. Anderson; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Spence and Dr. Komadina. **MOTION CARRIED.**

**RECOMMENDATION** was made by Dr. Spence to **CLOSE** Case #2014-B-112 with an Advisory Letter regarding the parental responsibility act. **YES:** Dr. Weiner; Ms. Anderson; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Spence and Dr. Komadina. **MOTION CARRIED.**

**Case #2013-B-095 RECOMMENDATION** was made by Dr. Spence to issue a Notice of Contemplated Action based on, but not limited to, conduct unbecoming, conduct likely to deceive, defraud or harm the public, use of a false statement in a document connected with the practice of medicine, fraudulent billing, and misrepresentation on a renewal application. **YES:** Dr. Weiner; Ms. Anderson; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Spence and Dr. Komadina **MOTION CARRIED.**

**Case #2013-B-237 and Case #2014-B-092 RECOMMENDATION** was made by Dr. Spence to issue a Notice of Contemplated Action based on, but not limited to, conduct unbecoming and failure to report. **YES:** Dr. Weiner; Ms. Anderson; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Spence and Dr. Komadina **MOTION CARRIED.**

**Case #2014-B-006 RECOMMENDATION** was made by Dr. Spence to offer the physician a stipulated order allowing him to withdraw his application for licensure while under investigation. If he does not accept, a Notice of Contemplated Action to deny licensure will be issued based on, but not limited to, habitual or excessive use of alcohol or substances and licensure action in another state. **YES:** Dr. Weiner; Ms. Anderson; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Spence and Dr. Komadina **MOTION CARRIED.**

**Case #2014-B-073 RECOMMENDATION** was made by Dr. Spence to issue a Notice of Contemplated Action based on, but not limited to, incompetency to practice, conduct unbecoming, and conduct likely to deceive, defraud and harm the public. **YES:** Dr. Weiner; Ms. Anderson; Mr. Wallace; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Spence; Dr. Komadina and Dr. Kankanala. **MOTION CARRIED.**

**Case #2014-B-097 RECOMMENDATION** was made by Dr. Spence to issue a Notice of Contemplated Action based on, but not limited to, incompetency to practice, injudicious prescribing, and failure to maintain accurate and complete medical records. **YES:** Dr. Weiner; Ms. Anderson; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Spence and Dr. Komadina **MOTION CARRIED.**

### **Complaint Committee C**

**RECOMMENDATION** was made by Mr. Bourbon to **CLOSE** Case #2013-C-151; #2013-C-209; #2013-C-231; #2014-C-020; #2014-C-053; #2014-C-064; #2014-C-074; #2014-C-076; #2014-C-095; #2014-C-107; #2014-C-108 and #2014-C-123 **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Mr. Wallace; Dr.

Komadina; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **MOTION CARRIED.**

**RECOMMENDATION** was made by Mr. Bourbon to **CLOSE** Case #2013-C-230 with an Advisory Letter regarding the Board's regulation requiring the physician assistant to have a supervising physician and to notify the board of same. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Mr. Wallace; Dr. Komadina; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **MOTION CARRIED.**

**RECOMMENDATION** was made by Mr. Bourbon to **CLOSE** Case #2014-C-093 with an Advisory Letter regarding the need to consult with a geriatric provider on medications for the elderly, as this medication is not medically indicated for a patient of this age. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Mr. Wallace; Dr. Komadina; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **MOTION CARRIED.**

**RECOMMENDATION** was made by Mr. Bourbon to **CLOSE** Case #2014-C-127 with an Advisory Letter regarding the board's regulations on prescribing controlled substances for chronic pain, including, checking PMP's and corroborating with the other healthcare practitioners. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Mr. Wallace; Dr. Komadina; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **MOTION CARRIED.**

**Case #2014-C-069 RECOMMENDATION** was made by Mr. Bourbon to issue an immediate **SUMMARY SUSPENSION** of physician's medical license based on him posing a clear and immediate danger to the public health and safety and pleading guilty to an offense related to the practice of medicine, and simultaneously issuing a Notice of Contemplated Action based on, but not limited to, obtaining a fee by fraud or misrepresentation; gross negligence; use of a fraudulent or deceptive statement in a document connected with the practice of a license; conduct likely to deceive, defraud or harm the public; repeated similar negligent acts; conduct unbecoming; conviction of a misdemeanor within the practice of medicine; and violation of a drug law. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Mr. Wallace; Dr. Komadina; Dr. Beaudette and Dr. Jenkusky. **RECUSED:** Dr. Kankanala and Mr. Bourbon. **MOTION CARRIED.**

#### **Complaint Committee D**

**RECOMMENDATION** was made by Dr. Beaudette to **CLOSE** Case #2013-D-203; #2013-D-212; #2014-D-007; #2014-D-030; #2014-D-039; #2014-D-084; #2014-D-099; #2014-D-125 **YES:** Dr. Weiner; Dr. Spence; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **MOTION CARRIED.**

**RECOMMENDATION** was made by Dr. Beaudette to **CLOSE** Case #2013-D-194 with strong warning letter that one more complaint will now lead to licensure action. **YES:** Dr. Weiner; Dr. Spence; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **MOTION CARRIED.**

**RECOMMENDATION** was made by Ms. Anderson to **CLOSE** Case #2013-D-213 with an advisory letter regarding communication with family members of a patient regardless of the profession of family member. **YES:** Dr. Weiner; Dr. Spence; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **MOTION CARRIED.**

**RECOMMENDATION** was made by Dr. Beaudette to **CLOSE** Case #2014-D-035 with an advisory letter regarding maintaining boundaries. **YES:** Dr. Weiner; Dr. Spence; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **MOTION CARRIED.**

**RECOMMENDATION** was made by Dr. Beaudette to **CLOSE** Case #2014-D-038 with an advisory letter regarding communication with patients and their family members, cooperation with the board, and that this will be the last advisory letter given to him - next time it will be licensure action. **YES:** Dr. Weiner; Dr. Spence; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **MOTION CARRIED.**

**RECOMMENDATION** was made by Dr. Beaudette to **CLOSE** Case #2014-D-124 with an advisory letter regarding providing notice to patients and accommodating patients during implementation of a new process. **YES:** Dr. Weiner; Dr. Spence; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **MOTION CARRIED.**

**RECOMMENDATION** was made by Dr. Beaudette to **CLOSE** Case #2014-D-134 with an advisory letter regarding the laws regulating his controlled substance registration and interacting with other healthcare providers that could adversely affect patient care. **YES:** Dr. Weiner; Dr. Spence; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **MOTION CARRIED.**

**Case #2013-D-134 RECOMMENDATION** was made by Dr. Beaudette to issue a Notice of Contemplated Action based on, but not limited to, sexual contact with a patient, violation of a drug law, failure to maintain adequate medical records, and habitual or excessive use of controlled substances. **YES:** Dr. Weiner; Dr. Spence; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **MOTION CARRIED.**

**Case #2013-D-192 RECOMMENDATION** was made by Dr. Beaudette to offer physician a stipulated license restricting his controlled substance prescribing that mirrors the DEA's restrictions, and require physician to complete a PRoBE ethics course at CPEP within six months. If physician refuses, a Notice of Contemplated Action will be issued based on, but not limited to, failure to report, failure to supervise, conduct unbecoming and violation of a drug law. **YES:** Dr. Weiner; Dr. Spence; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **MOTION CARRIED.**

**Case #2014-D-100 RECOMMENDATION** was made by Dr. Beaudette to offer physician a stipulated license restricting him from ophthalmology surgery. If physician does not accept, a Notice of Contemplated Action will be issued based on, but not limited to, incompetency to practice and failure to report. **YES:** Dr. Weiner; Dr. Spence; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **MOTION CARRIED.**

**Case #2014-D-114 RECOMMENDATION** was made by Dr. Beaudette to offer physician a stipulated license requiring mandatory participation in MTP. 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 or controlled substances. **YES:** Dr. Weiner; Dr. Spence; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson and Dr. Beaudette. **MOTION CARRIED.**

#### **Complaint Committee E**

**RECOMMENDATION** was made by Dr. Weiner to **CLOSE** Case #2014-E-001; #2014-E-037; #2014-E-040; #2014-E-045; #2014-E-051; #2014-E-086; #2014-E-119; #2014-E-158. **YES:** Dr. Spence; Ms. Anderson; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner. **MOTION CARRIED.**

**Case #2014-E-106 RECOMMENDATION** was made by Dr. Weiner to issue an immediate **SUMMARY SUSPENSION** of physician's medical license based on physician being an immediate danger to public health and safety, and simultaneously issue a Notice of Contemplated Action based on, but not limited to, sexual contact with a patient, failure to maintain accurate medical records, conduct likely to harm the public, habitual or excessive use of intoxicants or substances, conduct unbecoming, interaction with health care providers and others that adversely affect patient care. **YES:** Dr. Spence; Ms. Anderson; Mr. Wallace; Dr. Komadina; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner and Dr. Kankanala. **MOTION CARRIED.**

**Case #2014-E-110 RECOMMENDATION** was made by Dr. Weiner to order physician to be evaluated by an Impaired Physician Committee for physical impairment, and case will remain open pending the IPC report. If physician does not accept, a Notice of Contemplated Action will be issued based on, but not limited to failure to cooperate with the Board and incapacity to practice medicine. **YES:** Dr. Spence; Ms. Anderson; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner. **MOTION CARRIED.**

**Case #2014-E-121 RECOMMENDATION** was made by Dr. Weiner to offer physician a stipulated order that mirrors the terms and conditions of his Colorado Order. If physician does not accept, a Notice of Contemplated Action will be issued based on, but not limited to, licensure action in another state, failure to report, injudicious prescribing, conduct unbecoming and conduct likely to harm. **YES:** Dr. Spence; Ms. Anderson; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner. **MOTION CARRIED.**

**Case #2014-E-157 RECOMMENDATION** was made by Dr. Weiner to issue a Notice of Contemplated Action to **DENY** licensure based on, but not limited to, licensure action in another state, habitual or excessive use of alcohol or substances and conduct likely to harm. **YES:** Dr. Spence; Ms. Anderson; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner. **MOTION CARRIED.**

**Case #2014-E-159-** Tabled.

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

**Claude Gelinias, M.D. – Consider Settlement**

**MOTION** was made by Ms. Anderson to accept the settlement as presented. **SECONDED:** Mr. Wallace. **YES:** Ms. Anderson; Mr. Wallace; Dr. Komadina; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner; Dr. Spence and Dr. Kankanala. **MOTION CARRIED.**

**Haruhuan Spruce, M.D. – Consider Settlement**

**MOTION** was made by Dr. Weiner to accept the settlement as presented. **SECONDED:** Ms. Anderson. **YES:** Dr. Weiner; Ms. Anderson; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Spence and Dr. Komadina. **MOTION CARRIED.**

**Mark Walden, M.D. – Motion for Costs**

**MOTION** was made by Dr. Jenkusky to **GRANT** the Board Prosecutor's Motion for Costs. **SECONDED:** Dr. Kankanala. **YES:** Dr. Spence; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Dr. Weiner and Ms. Anderson. **MOTION CARRIED.**

**Nicholas Nardacci, M.D. – Amendment of Boards Decision and Order**

**MOTION** was made by Dr. Weiner to **GRANT** the Board's Amended Decision and Order and remove the term "fraud." **SECONDED:** Dr. Spence. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

**6. OLD BUSINESS**

**Number of years out of practice triggering proof of competency**

Ms. Hart informed the Board that at the last Board Meeting, staff was tasked with assessing the number of years out of practice triggering proof of competency. She stated that at this time it is at the Board's discretion to require proof of competency and that staff uses a two year timeframe as a tool for beginning to look at proof of competency. If in fact an applicant has not been practicing clinically within the past 2 years before submitting their application, the applicant would be referred to the University of New Mexico's mini sabbatical program so that clinical skills can be assessed. Ms. Hart further stated that the board and staff have been very comfortable with this process, and that Dr. Rayburn has done a great job in administering the mini-sabbatical program. Dr. Kankanala stated that he doesn't believe that the Board needs to be concerned about continued practice; however, they do need to be concerned about competency and quality of care. Ms. Hart stated that the Board should look at what a physician has been doing if they have been out of practice so that there is an idea as to clinical application of knowledge and that each Case should then be evaluated individually. The Board receives 4 to 6 applications of this type per year and it is reasonable to evaluate each application on a case by case basis. It was agreed that the two year trigger is valid and there is not a need to change it.

**Pain Management**

Dr. Jenkusky reiterated to the Board that the 2012 Senate Bill 215 requires anyone that holds a NM Controlled Substance Registration and NM DEA must complete 5 hours of CME in Pain Management. The Board initially required very specific content of the CME to help physicians to understand the

problem of excessive opiate prescribing, drug diversion, accidental deaths, and also to make them aware of the Board's rules regarding Pain Management. He stated that because this will be required with every renewal, it is important that licensees be provided with some guidance regarding the requirements.

The following language was formulated by Dr. Jenkusky as guidance for physicians and staff:

*"It is recommended that the NMMB endorse courses that teach evidence-based approaches to the treatment of pain, including the proper use of opiates and other controlled substances, that may also include how to deal with misuse of, detoxification from, and treatment of addiction to opiates and other controlled substances."*

There was a lot of discussion regarding the requirement. Dr. Jenkusky informed the Board that since the inception of the new requirements, drug overdose deaths decreased by 20%. It was agreed that Dr. Jenkusky's recommended language be approved.

#### **Interstate Medical Licensure Compact**

Ms. Hart informed the Board that the AMA has adopted the FSMB's Interstate Licensing Compact and has agreed to work with individual State Medical Societies to get the Compact passed in their state legislatures. She has spoken with Mr. Randy Marshall of the New Mexico Medical Society and he has informed her that currently he does not think the NMMS will advocate for NM joining at this time. Ms. Hart stated that licensing staff has developed a "Platinum Endorsement" based on requirements for being eligible to apply for a Compact License. Ms. Quintana stated that 112 physicians have been licensed in the past two months and that, of those, 64 had met the 'platinum standard' and had been licensed within an average of 4.5 days from receipt of the application. Ms. Hart informed the Board that NM is licensing physicians faster than most states and she does not believe that NM needs to be a part of a Compact at this time. She further stated that the compact would result in state sovereignty being taken over by this new bureaucracy, the Interstate Compact Commission, which would be imposed between medical boards and their state legislatures.

After much discussion regarding the compact, Dr. Komadina made a **MOTION** to **ACCEPT** the recommendations of the NM Medical Board Staff and not adopt the FSMB's Interstate Licensure Compact. **SECONDED:** Dr. Kankanala. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

## **7. Compliance Reports**

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

**MOTION** was made by Dr. Weiner to go into Executive Session pursuant to Section 10-15-1(H) (1) of the Open Meetings Act to discuss matters pertaining to the issuance, suspension, renewal or revocation of a license and disciplinary matters. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

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

Ms. Dieterich reviewed the compliance report and status of licensees under a current board stipulation.

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

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

### **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. Compliance – Actions Related to Executive Session**

**Mark Walden, M.D. – Review Assessments and Further Modification of Board Order**

**MOTION** was made by Dr. Weiner to order physician to successfully complete a full residency prior to reapplication for physician licensure in New Mexico. If physician is accepted to UNM for a residency program, the Board will then issue him a resident license. License has been revoked, but the revocation is stayed and license remains suspended. **SECONDED:** Mr. Wallace. **YES:** Dr. Weiner; Dr. Spence; Dr. Komadina; Mr. Wallace; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **RECUSED:** Ms. Anderson. **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. Jenkusky. **YES:** Dr. Weiner; Mr. Wallace; Ms. Anderson; Dr. Spence; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

**Prosecution Status Report**

Mr. Rubin, Administrative Prosecutor reported the status of pending appellate cases.

**Informal Interviews**

Stephen Cain, M.D.; James Bradley, M.D.; Michael Bellas, P.A.; Elaine Bradshaw, M.D.; Jimmie Charlie, M.D.; Julie DiCianno, M.D.; Steven Greer, M.D.; Richard Lieberman, M.D.; Juan Rossini, M.D.; Nancy Saschel, P.A.; Milton Sanchez, PSGT; Richard Smith, M.D.; Benjamin Stake, M.D.; Jennifer Tso, P.A.; Paul De Stefano, M.D.

**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.

**9. ACTIONS RELATED TO EXECUTIVE SESSION:**

**Richard Lieberman, M.D. – Request for Release from Board Stipulation**

**MOTION** was made by Dr. Weiner to **GRANT** Dr. Lieberman's request to be released from his Stipulation. **SECONDED:** Dr. Jenkusky. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

**Benjamin Stake, M.D. – Request for Amendment to Board Stipulation**

**MOTION** was made by Dr. Weiner to **GRANT** Dr. Stake's request to allow him to return to medical practice under the specific condition proposed to the Board and with prior approval of MTP. **SECONDED:** Dr. Jenkusky. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**

**10. REPORTS - Licensing Manager**

**Emeritus License Status**

Ms. Quintana reminded the Board that at the last Board Meeting there was discussion regarding an Emeritus License and staff was tasked to research the idea. She stated that instead of a license the Board may grant an Emeritus Status, which can be done through a rule change under "retired status" and would not involve having to change the statute. The status would be an option for a retired physician who has had no disciplinary action on any prior license, and who is in good standing with the NM Medical Board. She further stated that additional criteria could be added if the Board so wished. Several Board Members asked what the benefit of the status would be. Ms. Hart stated that the Emeritus Status would show that a physician has completed their career with outstanding performance and can serve in the Medical Society as an officer. Dr. Komadina mentioned that the majority of physicians are not New Mexico Medical Society members. After much discussion amongst Board Members and staff, Ms. Quintana stated that since a Professional Practice Question regarding clinical practice will be added to the next renewal, it may be better to analyze the responses and then reevaluate this topic. Board members agreed.



### **License Renewal & Professional Practice Question Proposal regarding clinical practice**

Ms. Quintana informed the Board that, at the time of the next renewal, a professional practice question will be added. The question was presented to the Board as follows: "Since your last renewal, have you practiced in a clinical setting? If you answer 'No', please provide an explanation for what you have been doing". Board members questioned if physicians will be forthcoming and truthful when answering that question. Dr. Beaudette asked if the question is being added because retired physicians are abusing the system. Ms. Hart stated that many complaints are being received about retired physicians writing prescriptions and who have not been in active medical practice, so there is a need to explore this issue. Board members asked how one would define "practicing medicine", and Ms. Anderson added that there would need to be of both a definition of the practice of medicine and an indication of a threshold for evaluating a given physician. This started a long conversation regarding the issue and the Board decided that the question should read as follows: "Since your last renewal, have you practiced medicine?" After the first renewal cycle the responses will be analyzed and the necessity for this question being asked will be re-evaluated.

### **Administrative License Proposal**

Ms. Quintana informed the Board that at the last Board Meeting staff was tasked with doing research regarding an Administrative License. She stated that this is a huge effort and it will involve having to go into the statute to create this type of license. Ms. Quintana requested that a taskforce be formed to help with research and to be able to specifically define what an administrative license is. She provided the Board with information on administrative licenses in other states as many have them; however, they are all very different. Mr. Wallace and Dr. Jenkusky volunteered to be part of the Task Force.

### **ADJOURN**

Dr. Weiner adjourned the first day [November 13, 2014] of the November Regular Board Meeting at 4:50 p.m.

### **Friday, November 14, 2014**

Dr. Weiner called the Rule Hearing to order at 9:05 a.m. on Friday, November 14, 2014; a quorum was present.

11. **RULE HEARING - 16.10.15 NMAC - Physician Assistants: Licensure and Practice Requirements**  
Albert Bourbon, PA-C, gave a brief overview of the proposed amended rule and the Board held a discussion regarding the proposed language.
12. **ADOPTION OF RULES**  
**MOTION** was made by Dr. Weiner to **ADOPT** Rule 16.10.15 NMAC as presented at the Rule Hearing. **YES:** Dr. Weiner; Dr. Spence; Ms. Anderson; Mr. Wallace; Dr. Komadina; Dr. Kankanala; Dr. Beaudette; Mr. Bourbon and Dr. Jenkusky. **MOTION CARRIED.**
13. **NEW BUSINESS**  
**Aid in Dying Presentation**  
Erin Marshall of Compassion & Choices opened a discussion with Board members regarding the topic of Aid in Dying. She informed the Board that at this time they are trying to educate people regarding end of life options. Aid in Dying is new in New Mexico, and is a practice that is only authorized in the 2<sup>nd</sup> Judicial District (Bernalillo County) by a district court ruling. Since the ruling in January of 2014, Compassion & Choices has received approximately 112 calls to their hotline. She informed the Board that this practice applies to a small patient population and it is not something that is vastly available to the general public. She introduced Dr. Peter Reagan and Dr. Kate Morris, both of whom have first hand experience with the Death with Dignity Act in the State of Oregon. As part of Dr. Reagan's presentation, he informed the Board that the percentage of terminally ill patients who actually take a prescription to end their life is very small in Oregon. These patients are provided a choice and a large percentage do not end up choosing aid in dying. Dr. Reagan explained that the law that was implemented in Oregon provides a huge value to patients as it legalizes the conversation so physicians are not so concerned about possible repercussions. Dr. Reagan stated that it is not easy for physicians to partake and that it would be extremely rare to find a physician that does not take the role incredibly serious. Oregon has very good guidelines in place to follow and so it is not simply a request and

response type of situation. Dr. Morris explained that she would like to see a standard of care developed for New Mexico that works for everyone and that is respectful of everyone's beliefs.

Ms. Hart stated that because there is not a statute in place as there is in Oregon, there are no legal guidelines to follow. She asked Dr. Morris if she was requesting the Board to assist them in writing guidelines for Aid in Dying for the State of New Mexico. Dr. Morris indicated it was a bit of a gray zone. Ms. Hart expressed to the Board that something needs to be established for physicians in New Mexico, to which Ms. Anderson added that it was important for standards to be put in place for physician value. Dr. Weiner stated that there needs to be some discussion in order for the Board to make decisions and to decide what is right for the State of New Mexico. Dr. Spence expressed concern that as of August 2014 the AMA, as well as the American College of Physicians were opposed to Aid in Dying, and was concerned about any professional organizations who have endorsed this. Dr. Jenkusky believed that this was a very fragile situation and did not believe that the Board needed to be involved at this point. Ms. Hart reminded the Board that this most likely will become legal in New Mexico, and it will be a physician's choice whether they offer aid in dying to terminally ill patients - it will not be mandatory - and having guidelines in place, similar to Oregon's guidelines, would benefit the physicians who do choose to offer aid in dying and will provide the Board with some type of measure when reviewing standard of care with regard to this issue. Dr. Beaudette felt that while the conversation was important, it is a moot point since aid in dying is not yet legal in New Mexico. Ms. Anderson felt that if there were standards in place, more physicians would be willing to provide this type of care to patients and that was the value of having standards.

Based on the diverse opinions of the Board, Ms. Hart informed Dr. Morris that the Board needs to review Oregon's guidelines, that obviously the issue was too premature to bring to the Board, but that the Board would like to start working with them, as well as others, to have some guidelines in place for physicians in New Mexico. Dr. Komadina disagreed and indicated that it was the Board who make the decisions, and not the Board staff who are hired to facilitate the Board's actions. Dr. Komadina indicated that even though Board members come and go, they come and go based upon statute and state law and they are given authority to make the decisions being facilitated by the staff hired by the state. Dr. Komadina advised the Board that the government also relies on other governments, and New Mexico looks toward UNM School of Medicine as setting a standard of practice for many areas, that they are seen as the authorities in New Mexico. As long as aid in dying makes it through all of the legal challenges, Dr. Komadina believes that the Cancer Center will probably come up with some guidelines that can then be used by the Board as the standard to be held by. Dr. Komadina did not want the Board to start suddenly making decisions as to what should be done. He pointed out that the Board was forced to do it for chronic pain, but that was because there is a statute in place, and so unless a law is passed requiring the Medical Board to have oversight of all compassionate end of life assistance, then he thought this was bad for the practice of medicine. Dr. Komadina felt this was great information and if legislation is introduced, then perhaps the Board might get involved, but he really just wanted to voice his caution about any of the Board or Board staff speaking on behalf of the Board, whether it be a Board member or employee when the Board has not yet made a decision.

#### **Financial / HR Manager**

Ms. Mascarenas reported to the Board the status of the FY15 Budget and Revenue Status ending September 30, 2014. She stated that the agency expended \$440,300 or 23% of its FY15 operating budget; revenues collected through September 30, 2014 are \$284,100 or 16%. The cash balance as of November 13, 2014 is \$2,327,400. She further informed the Board that \$11,400.00 has been expended for hearing and litigation and \$14,600 has been encumbered for FY15.

#### **Agency Audit Conducted in October 2014**

Ms. Mascarenas informed the Board that the FY14 Audit was completed in October. The audit will be released by December and all indication from our exit conference in November is that it will be favorable.

#### **Board Attorney**

Sondra Frank, Board Attorney, informed the Board that the NMMB Statutes and Rules are still in the process of being revised.

**Executive Director**

**NM Medical Society Legislative Priorities/Chiropractic Bill**

Ms. Hart gave a brief update and overview on the upcoming legislative priorities. There was a brief discussion regarding the legislative bill concerning non-compete clauses.

**PA Proposed Statute Change**

Mr. Bourbon thanked the board and stated that he is pleased that the changes will help Physician Assistants continue to provide great care in collaboration with physicians to New Mexicans. Sabrina Johnson president for NM PA academy also supported the above comments.

**NM Health Care Workforce Committee**

Ms. Hart presented the NM Healthcare Workforce Report as information only. She stated that it was also presented at the last Medical Society meeting. She stated to the Board that the PA population was unhappy about their lack of representation in the report. Ms. Quintana informed the Board that PA's have only been surveyed for one year and therefore the NM Healthcare Workforce Committee only has partial data for PA's. After this renewal cycle there will be a complete cycle of data for the Committee to work with.

**Chair Report**

No report at this time.

**Medical Director**

No report at this time.

**Investigations**

No report at this time.

**14. ADJOURN**

There being no further business before the Board, Dr. Weiner adjourned the meeting at 11:30 a.m.

SUBMITTED BY: *Lynn Hart* DATE: 1/8/15  
for Lynn Hart, Executive Director

APPROVED BY: *Steve Weiner, M.D.* DATE: 1/8/15  
Steve Weiner, M.D., Chair

APPROVED BY: *Steven Jenkusky* DATE: 1/8/15  
Steven Jenkusky, M.D., Vice Chair