

NEW MEXICO MEDICAL BOARD
Interim Meeting
September 30, 2010

MINUTES

Members Present:

Steven Weiner, M.D., Chairman
Rebecca Cochran, CPMSM, CPCS , Vice-Chair, Public Member – by teleconference
Paul Kovnat, M.D., Secretary Treasurer – by teleconference
Roger Miller, M.D.
Kathy Abeles, Public Member
Steve Jenkusky, M.D. – by teleconference
Frank Crespín, M.D. – by teleconference
Albert Bourbon, P.A. – by teleconference

Members Absent:

Ann Wehr, M.D.

Also Present:

Lynn Hart, Executive Director
Grant La Farge, M.D., Medical Director
Julie Meade, Chief Legal Counsel
Andrea Buzzard, Assistant Attorney General
Lynn Tipton, Administrative Assistant
JJ Walker, Compliance / Public Information Officer
Debbie Dieterich, Senior Investigator
Jonni Lu Pool, Investigator
Amanda Quintana, Licensing Manager

1. CALL TO ORDER

The interim meeting of the New Mexico Medical Board convened at 4:00 p.m., Thursday, September 30, 2010 in the Board Conference Room, 2055 S. Pacheco, Santa Fe, New Mexico, **Steve Weiner, M.D.** presiding. A quorum was declared.

2. APPROVAL OF AGENDA

Dr. Weiner **MOVED** to approve the agenda. Dr. Miller **SECONDED**: **YES**: Dr. Weiner, Dr. Miller, Ms. Abeles, Mr. Bourbon, Ms. Cochran, Dr. Crespín, Dr. Jenkusky and Dr. Kovnat. **MOTION CARRIED.**

3. APPROVE MINUTES

Dr. Weiner **MOVED** to approve the minutes of the August 12-13, 2010 Quarterly Board meeting. Ms. Abeles **SECONDED**. **YES**: : Dr. Weiner, Dr. Miller, Ms. Abeles, Mr. Bourbon, Ms. Cochran, Dr. Crespín, Dr. Jenkusky and Dr. Kovnat. **MOTION CARRIED.**

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

Executive Session: **MOTION** was made by Dr. Weiner and **SECONDED** by Dr. Miller to go into executive session to discuss matters of licensure and discipline. **YES**: : Dr. Weiner, Dr. Miller, Ms. Abeles, Mr. Bourbon, Ms. Cochran, Dr. Crespín, Dr. Jenkusky and Dr. Kovnat. **MOTION CARRIED.**

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

closure.

- A. Dilip Rajesh, M.D. – Request exception to 7 year rule and grant unrestricted medical license.**
MOTION was made by Dr. Kovnat to accept the request for exception to the 7 year rule and **GRANT** Dr. Rajesh a license to practice medicine in New Mexico.
SECONDED by Dr. Weiner. **YES:** Dr. Weiner, Dr. Miller, Ms. Abeles, Mr. Bourbon, Ms. Cochran, Dr. Crespin, Dr. Jenkusky and Dr. Kovnat. **MOTION CARRIED.**
- B. James Warson, M.D. – Consider UNM report and consider medical licensure.**
MOTION was made by Dr. Weiner to allow Dr. Warson to withdraw his application for licensure since there are no provisions under the Medical Practice Act to issue a limited license to practice medicine. **SECONDED** by Ms. Cochran. **YES:** Dr. Weiner, Dr. Miller, Ms. Abeles, Mr. Bourbon, Ms. Cochran, Dr. Crespin, Dr. Jenkusky and Dr. Kovnat. **MOTION CARRIED.**
- C. Decision and Order – Czaba Linszky, M.D.**
MOTION was made by Dr. Weiner to **ACCEPT** the Hearing Officer's report in its entirety and **ISSUE** physician a license to practice medicine as well as a Letter of Reprimand based on misrepresentation when applying for a license in New Mexico. **SECONDED** by Ms. Cochran. **YES:** Dr. Weiner, Ms. Abeles, Mr. Bourbon, Dr. Crespin, Dr. Jenkusky and Dr. Kovnat. **RECUSED:** Dr. Miller and Ms. Cochran. **MOTION CARRIED.**
- D. Clarification of Stipulated Agreement – Joan Lewis, M.D.**
MOTION was made by Dr. Weiner **NOT** to amend Dr. Lewis' Stipulated Agreement. and to clarify that her request is precluded by the Stipulated Agreement. **SECONDED** by Dr. Miller. **YES:** Dr. Weiner, Dr. Miller, Ms. Abeles, Mr. Bourbon, Ms. Cochran, Dr. Crespin, Dr. Jenkusky and Dr. Kovnat. **MOTION CARRIED.**

5. INVESTIGATIONS

- **Complaint Committee B:**

CASE NO. 2010-B-151 **RECOMMENDATION** was made by Dr. Miller to close complaint case 2010-B-151 as there was no evidence of a violation of the Medical Practice Act or rules. **YES:** Dr. Weiner, Ms. Abeles, Mr. Bourbon, Dr. Crespin, Dr. Jenkusky and Dr. Kovnat. **ABSTAINED:** Dr. Miller and Ms. Cochran. **RECOMMENDATION PASSED.**

CASE NOS. 2009-B-156, 2010-B-011 and 2010-B-186 ([REDACTED])
RECOMMENDATION was made by Ms. Cochran to issue a Summary Suspension of physician's license based on physician's immediate threat and danger to public safety, simultaneously with the issuance of a Notice of Contemplated Action based on, but not limited to, repeated similar negligent acts, manifest incapacity or incompetence to practice as a licensee, and failure to report to the Board action taken against the licensee. **YES:** Dr. Weiner, Ms. Abeles, Mr. Bourbon, Dr. Crespin, Dr. Jenkusky and Dr. Kovnat. **ABSTAINED:** Dr. Miller and Ms. Cochran. **RECOMMENDATION PASSED.**

CASE NO. 2010-B-027 ([REDACTED]) **RECOMMENDATION** was made by Ms. Cochran to amend the allegations in the Notice of Contemplated Action to include, but

not be limited to, physician's surrender of a license before another state licensing board, and his failure to report to the New Mexico Medical Board the surrender of his license before another state licensing board. **YES:** Dr. Weiner, Ms. Abeles, Mr. Bourbon, Dr. Crespin, Dr. Jenkusky and Dr. Kovnat. **ABSTAINED:** Dr. Miller and Ms. Cochran. **RECOMMENDATION PASSED.**

- **Complaint Committee D:**

CASE NO. 2009-D-247 (Henry Borra, M.D.) RECOMMENDATION was made by Dr. Jenkusky to offer physician a Stipulated License requiring mandatory participation in the New Mexico Monitored Treatment Program (MTP) and other standard substance abuse stipulations, as well as a provision requiring monitoring and oversight by physician's employer. **YES:** Dr. Weiner, Ms. Abeles, Dr. Miller, Ms. Cochran, Dr. Crespin and Dr. Kovnat. **ABSTAINED:** Dr. Jenkusky and Mr. Bourbon. **MOTION CARRIED**

CASE NO. 2010-D-202 (Kenneth Bull, M.D.) RECOMMENDATION was made by Dr. Jenkusky to issue a Summary Suspension of physician's license based on physician's immediate threat and danger to public safety, simultaneously with the issuance of an Amended Notice of Contemplated Action based on, but not limited to, injudicious prescribing; and failure to maintain adequate, accurate and legible medical records. **YES:** Dr. Weiner, Ms. Abeles, Dr. Miller, Ms. Cochran, Dr. Crespin and Dr. Kovnat. **ABSTAINED:** Dr. Jenkusky and Mr. Bourbon. **MOTION CARRIED**

CASE NO. 2010-D-117 (Kenneth Bull, M.D.) RECOMMENDATION was made by Mr. Bourbon to issue a Summary Suspension of physician's license based on physician's immediate threat and danger to public safety, simultaneously with the issuance of an Amended Notice of Contemplated Action based on, but not limited to, injudicious prescribing; and failure to maintain adequate, accurate and legible medical records. **YES:** Dr. Weiner, Ms. Abeles, Dr. Miller, Ms. Cochran, Dr. Crespin and Dr. Kovnat. **ABSTAINED:** Mr. Bourbon. **RECUSED:** Dr. Jenkusky. **MOTION CARRIED**

6. **ACTIONS RELATED TO EXECUTIVE SESSION – SEE ITEMS #4 & #5 ABOVE.**

7. **STAFF REPORT** – Ms. Hart informed the board that one of the Board's Investigators, Jonni Lu Pool has resigned. She is transferring to the Department of Health's' General Counsel Department. The Board thanked Ms. Pool, in absentia, for her excellent work.

8. **CHAIR REPORT** – Dr. Weiner did not have a report at this time.

9. **NEW BUSINESS**

A. Medical Practice Act Proposed Revision to 61-6-17K

MOTION was made by Dr. Weiner to **ACCEPT** the proposed revision to Section 61-6-17K of the Medical Practice Act. **SECONDED** by Mr. Bourbon. **YES:** Dr. Weiner, Dr. Miller, Ms. Abeles, Mr. Bourbon, Ms. Cochran, Dr. Crespin and Dr. Jenkusky. **ABSENT:** Dr. Kovnat. **MOTION CARRIED.**

B. Appoint a Task Force to work with staff on Hospital Reporting

The Board appointed Ms. Cochran, Dr. Weiner, Dr. Miller and Debbie Dieterich to serve on the Task Force.

C. Nomination of Becky Cochran, CPMSM, CPCS, Vice Chair to serve on the Federation of State Medical Board

MOTION was made by Ms. Abeles to submit Ms. Cochran's name in nomination to serve on the Board of Directors of the Federation of State Medical Boards.

SECONDED by Dr. Miller. **YES:** Dr. Weiner, Dr. Miller, Ms. Abeles, Mr. Bourbon, Dr. Crespin and Dr. Jenkusky. **ABSENT:** Dr. Kovnat. **MOTION CARRIED.**

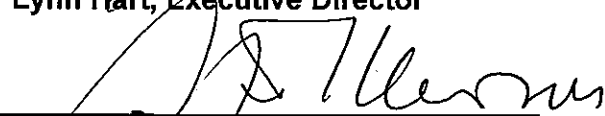
D. Request from Regulation and Licensing Department – Medical Board comment on the latest proposed formulary by the Acupuncture & Oriental Medicine Board (Hearing is 10/8/10)

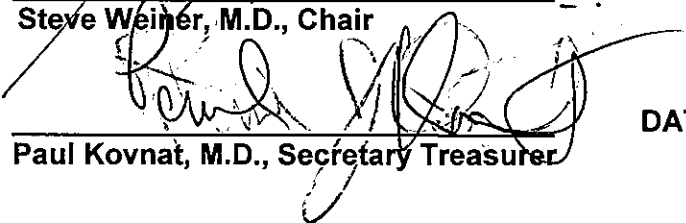
The Regulation and Licensing Department contacted Ms. Hart and requested that the Medical Board review the proposed Formulary for Advanced Practice Oriental Medicine Practitioners that will go before a rule hearing on October 8, 2010. Ms. Hart presented a draft recommendation statement for the Board's review.

MOTION was made by Ms. Cochran to approve the draft recommendation and direct Ms. Hart to request that the Medical Board's Recommendation (copy attached) be a part of the Acupuncture Board's rule hearing record. **SECONDED** by Dr. Miller. **YES:** Dr. Weiner, Dr. Miller, Mr. Bourbon, Dr. Crespin and Dr. Jenkusky. **NO:** Ms. Abeles. **ABSENT:** Dr. Kovnat. **MOTION CARRIED.**

10. **ADJOURN:** There being no further business, the meeting adjourned at 5:37 p.m.

SUBMITTED BY:  DATE: 11/18/2010
Lynn Hart, Executive Director

APPROVED BY:  DATE: 11/18/2010
Steve Weiner, M.D., Chair

 DATE: 11/18/10
Paul Kovnat, M.D., Secretary Treasurer