

**New Mexico Medical Board  
Interim Meeting  
September 27, 2012**

**MINUTES**

**Members Present:**

Steven Weiner, MD, Chair  
Rebecca Cochran, CPMSM, CPCS, Vice Chair, Public Member (by teleconference)  
Paul Kovnat, MD, Secretary/Treasurer  
Roger Miller, MD  
Steve Jenkusky, MD (by teleconference)  
Steve Komadina, MD (by teleconference)  
Albert Bourbon, PA-C (by teleconference)

**Members Absent:**

Sambaiah Kankanala, MD

**Others Present:**

Lynn Hart, Executive Director  
Dan Rubin, Administrative Prosecutor  
Grant La Farge, M.D., Medical Director  
Andrea Buzzard, Assistant Attorney General  
Gayle Mascarenas, CFO / HR  
J.J. Walker, Compliance Mgr. / PIO  
Amanda Quintana, Licensing Manager  
Debbie Dieterich, Senior Investigator  
Leann Lovato, Investigator

**1. Call to Order / Roll Call**

Dr. Weiner called the Interim Meeting to order at 4:00 p.m. and a quorum was determined present.

**2. Approve Agenda**

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

**3. Approve Minutes**

**MOTION** was made by Dr. Weiner to approve the Minutes from the August 9-10, 2012 Quarterly Board meeting.

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

4. **Chair Report**

**MOTION** was made by Dr. Weiner to go into Executive Session pursuant to Section 10-15-1(H)(2) of the Open Meetings Act to discuss limited personnel matters. **SECONDED** by Dr. Kovnat. **YES:** Dr. Weiner, Dr. Kovnat, Ms. Cochran, Dr. Miller, Dr. Jenkusky, Dr. Komadina and Mr. Bourbon. **MOTION CARRIED.**

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

**MOTION** was made by Dr. Weiner that a recommendation be sent to Governor Susana Martinez that Lynn Hart be officially hired as the Executive Director of the NM Medical Board. Ms. Hart has been fulfilling the duties of the Executive Director since 2006.

**SECONDED** by Ms. Cochran. **YES:** Dr. Weiner, Dr. Kovnat, Ms. Cochran, Dr. Miller, Dr. Jenkusky, Dr. Komadina and Mr. Bourbon. **MOTION CARRIED.**

5. **Executive Director**

**A. FY14 Budget** – Ms. Hart testified before the Legislative Finance Council on September 26, 2012 regarding the Board's Fiscal Year 2014 (FY 14) Budget Request. Ms. Hart reported that for the first time in several years, the Board submitted an increase in the approved budget versus submitting a flat request or no increase. The Board is requesting additional funds in various categories, including an increase in salaries and benefits, as well as contractual services. An additional FTE position is being requested to provide assistance to the Administrative Prosecutor and the Investigative Department.

6. **Investigations**

**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.

**SECONDED** by Dr. Kovnat. **YES:** Dr. Weiner, Dr. Kovnat, Ms. Cochran, Dr. Miller, Dr. Jenkusky, Dr. Komadina and Mr. Bourbon. **MOTION CARRIED.**

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

7. **Actions Related to Executive Session**

**A. Committee A:**

**Case #2011-A-145**

**RECOMMENDATION** was made by Dr. Kovnat to close this case with no action and issue an advisory letter on maintaining accurate records on patients.

No second required. **YES:** Dr. Weiner, Ms. Cochran, Dr. Miller, Dr. Jenkusky and Mr. Bourbon. **ABSTAINED:** Dr. Kovnat and Dr. Komadina.  
**RECOMMENDATION PASSED.**

**Case #2012-A-067**

**RECOMMENDATION** was made by Dr. Kovnat to accept the recommendations of the Impaired Physician Committee in their entirety and suspend the license pending the outcome of further evaluation. No second required. **YES:** Dr. Weiner, Ms. Cochran, Dr. Miller, Dr. Jenkusky and Mr. Bourbon. **ABSTAINED:** Dr. Kovnat and Dr. Komadina.  
**RECOMMENDATION PASSED.**

**B. Committee E:**

**Case #2012-E-125**

Recommendation was made by Dr. Weiner to close this case as there was no evidence of a violation of the Medical Practice Act or rules, and the complainant reversed their position. No second required. **YES:** Dr. Kovnat, Dr. Komadina, Ms. Cochran, Dr. Miller, Dr. Jenkusky and Mr. Bourbon. **ABSTAINED:** Dr. Weiner. **RECOMMENDATION PASSED.**

**8. Compliance**

**A. James Bradley, MD – Approve Return to Work Proposal**

**MOTION** was made by Dr. Weiner to **APPROVE** the proposed return to work plan presented by the NM Monitored Treatment Program. This plan includes: two worksite monitors; one day per week at the sleep clinic; three days per week at the pulmonary outpatient clinic; working no more than a total of 35 hours per week; limited to no more than 15 patients per day; and no hospital work or on-call work at this time.

**SECONDED** by Dr. Kovnat. **YES:** Dr. Weiner, Dr. Kovnat, Dr. Komadina, Ms. Cochran, Dr. Miller, Dr. Jenkusky and Mr. Bourbon.  
**MOTION CARRIED.**

**9. Licensing Requests and Actions, New Applicants/Reinstatements**

**A. Jose Andrade Barraza, M.D. – Consider Settlement**

**MOTION** was made by Dr. Weiner to **ACCEPT** the proposed settlement in Case #2012-016 as amended. **SECONDED** by Dr. Miller. **YES:** Dr. Weiner, Dr. Kovnat, Dr. Komadina, Ms. Cochran, and Dr. Miller.  
**ABSTAINED:** Dr. Jenkusky and Mr. Bourbon. **MOTION CARRIED.**

**B. Suzanne Gray, M.D. – Consider Settlement**

**MOTION** was made by Dr. Kovnat to **ACCEPT** the proposed settlement in Case #2011-45 as presented. **SECONDED** by Dr. Miller. **YES:** Dr. Kovnat, Dr. Komadina, Ms. Cochran, Dr. Miller, Dr. Jenkusky and Mr. Bourbon. **ABSTAINED:** Dr. Weiner. **MOTION CARRIED.**

- C. Leishatt Torreblanca Villena, M.D. – Consider exceptions for the 7 yr. examination rule**  
**MOTION** was made by Dr. Kovnat to **GRANT** an exception to the seven-year requirement and issue Dr. Villena an unrestricted license to practice medicine in New Mexico. **SECONDED** by Dr. Miller. **YES:** Dr. Weiner, Dr. Kovnat, Dr. Komadina, Ms. Cochran, Dr. Miller, Dr. Jenkusky and Mr. Bourbon. **MOTION CARRIED.**
- 10. Rule Review** – copies of proposed revisions are attached to these Minutes
- A. 16.10.4.8 NMAC – Continuing Medical Education (CME)**  
The proposed revision restates the CME portion of Part 14 in Part 4 for consistency.
- B. 16.10.5 NMAC – Disciplinary Power of the Board**  
16.10.5.9 Subsection C - The proposed revision clarifies that if a license is revoked, the licensee is required to reapply as a new applicant.  
16.10.5.12 – This section only needs to reference the Medical Practice Act, and as previously stated could be misleading.
- C. 16.10.10 NMAC – Report of Settlements, Judgments, Adverse Actions and Credentialing Discrepancies**  
16.10.10.7 Subsection A – The only proposed revision is grammatical.  
16.10.10.9 Subsection A – Proposed revisions are for clarification.  
16.10.10.9 Subsection D – The proposed revision adds to the enforceability of the Subsection.  
16.10.10.10 – The proposed revisions clarify that this Section governs all licensees, not just physicians and physician assistants.  
16.10.10.13 – The proposed revisions remove reference to Section 10 that do not apply to licensee reporting; clarifies and revises the timeframe for reporting from 45 days to 30 days to make reporting consistent with the rest of this Part.
- D. 16.10.14 NMAC – Management of Pain with Controlled Substances**
- **Section 16.10.14.10 – Clarify Intent**  
The proposed revisions clarify that the intent of the Prescription Monitoring Program (PMP) section includes prescriptions written for all controlled substances listed in Schedule II, III or IV that are written for a period greater than 10 days. Since Section 10 of Part 14 refers to a requirement for use of the PMP for controlled substances other than just pain management, the Board discussed adding a new rule for PMP requirements.
- E. 16.10.15 NMAC – Physician Assistant: Licensure and Practice Requirements**  
16.10.15.16 Subsection K – The proposed revision adds the continuing medical education (CME) portion of Part 14 to Part 15 for consistency.

**MOTION** was made by Dr. Weiner to **APPROVE** the proposed rule revisions to 16.10.4.8, 16.10.5, 16.10.10, 16.10.14 and 16.10.15, as amended, for a Rule Hearing to be held on November 9, 2012. **SECONDED** by Dr. Komadina. **YES:** Dr. Weiner, Dr. Kovnat, Dr. Komadina, Ms. Cochran, Dr. Miller, Dr. Jenkusky and Mr. Bourbon. **MOTION CARRIED.**

**11. Old Business**

**A. Grace Period on Renewal – Legislative Proposal – Discussion**

The Board discussed proposing revisions to Section 61-6-26 of the Medical Practice Act that would eliminate a grace period for license renewal. Ms. Hart explained the legislative process to the Board for proposing statute changes. Since the Medical Practice Act will be subject to review under the Sunset Act in the year 2015, the Board agreed to discuss any changes at a future date.

**12. New Business**

**A. Process for approving applicability of CME for 5 hr. Requirement**

**MOTION** was made by Dr. Weiner to delegate Lynn Hart, Executive Director, to approve individually submitted courses by licensees in fulfillment of their 5 hour CME, with assistance if needed. Ms. Hart may also approve course providers with recommendations by Dr. Jenkusky and Mr. Bourbon, if needed.

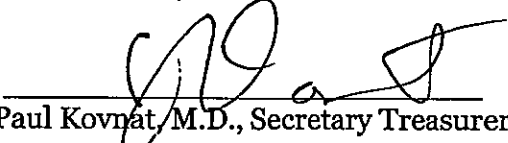
**SECONDED** by Dr. Kovnat. **YES:** Dr. Weiner, Dr. Kovnat, Dr. Komadina, Ms. Cochran, Dr. Miller, Dr. Jenkusky and Mr. Bourbon. **MOTION CARRIED.**

**13. Adjourn**

There being no further business, the Interim Meeting was adjourned at 5:10 p.m.

SUBMITTED BY:  DATE: 12/21/12  
Lynn Hart, Executive Director

APPROVED BY:  DATE: 12/18/12  
Steve Weiner, M.D., Chair

APPROVED BY:  DATE: 12 13 12  
Paul Kovnat, M.D., Secretary Treasurer