

**NEW MEXICO MEDICAL BOARD**  
*Interim Meeting*  
**January 7, 2010**

**DRAFT MINUTES**

**Members Present:**

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

**Also Present:**

Lynn Hart, Executive Director  
Grant La Farge, M.D., Medical Director  
Geraldine Mascarenas, Deputy Director  
GTS Khalsa, Prosecuting Attorney  
Lynn Tipton, Administrative Assistant  
Andrea Buzzard, A.A.G.  
Debbie Dieterich, Senior Investigator  
Amanda Quintana, Licensing Manager

(See list of all attendees attached to these minutes.)

**1. CALL TO ORDER**

The interim meeting of the New Mexico Medical Board convened at 4:07 p.m., Thursday, January 7, 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. Kovnat **MOVED** to approve the agenda. Dr. Crespín **SECONDED**: **YES:** Dr. Kovnat, Dr. Weiner, Dr. Miller, Dr. Crespín, Dr. Wehr, Dr. Jenkusky, Ms. Abeles, Ms. Cochran and Mr. Bourbon. **MOTION CARRIED.**

**3. APPROVE MINUTES**

Dr. Kovnat **MOVED** to approve the minutes of the November 12 - 13, 2009 Quarterly Board meeting. Dr. Weiner **SECONDED**. **YES:** Dr. Kovnat, Dr. Weiner, Dr. Miller, Dr. Crespín, Dr. Wehr, Dr. Jenkusky, Ms. Cochran, Ms. Abeles and Mr. Bourbon. **MOTION CARRIED.**

**4. CHAIR REPORT**

- **Welcome new board member** – Dr. Kovnat introduced Mr. Bourbon. Mr. Bourbon came to New Mexico in 1992 and resides with his family in Las Vegas, New Mexico. He works with a pediatric group in Las Vegas. He reported that he is very active with state and national physician assistant organizations, as well as, being a liaison to the American Academy of Pediatrics. He has also been involved with the New Mexico Pediatric Society.
- **Secretary / Treasurer** – The election for this position will be held at the February quarterly meeting.

5. **EXECUTIVE DIRECTOR**

- **Medical Malpractice Act and Insurance Issue** – Ms. Hart reported on the status of the Medical Malpractice Act and insurance issue as it pertains to corporations. A Writ of Mandamus was filed in Clovis and in Hobbs. A restraining order was placed on the Insurance Commissioner’s Ruling in Clovis and a hearing was scheduled for January 8, 2010, in Hobbs. It is possible that the issue may be resolved at the hearing in Hobbs. The Insurance Commission has not requested an opinion from the Attorney General’s office, as yet, and the issue could go before the Legislature later this month. Two possible scenarios would be to amend the Medical Malpractice Act or ask the Medical Board to certify corporations that would be qualified under the Medical Malpractice Act. Ms. Hart will work with Ms. Buzzard, Assistant Attorney General, on proposed language.
- **Liability of Experts** – Ms. Hart informed the Board that one expert witness has requested that the contract include indemnity from lawsuits. Currently, we refer experts to Section 61-6-34, Subsection A, of the Medical Practice Act which states that “No current or former member of the board, officer administrator, staff member, committee member, examiner, representative, agent, employee, consultant, witness or any other person serving or having served the board shall bear liability or be subject to civil damages or criminal prosecutions for any action or omission undertaken or performed within the scope of the board’s duties.” Ms. Hart will apprise the Board of any further concerns.

6. **2010 Legislative Session** – Ms. Hart discussed the issues that may be presented at the 2010 Legislative Session. Issues may include: budget cuts to operating expenses, salary cuts, rolling back tax deductions for practitioners, Medicaid cuts, Optometrists expanding their scope of practice, and HB26 which would allow Doctors of Osteopathy to manage care in the Medical-Assistance Medical Home Program.

7. **LICENSING REQUESTS AND ACTIONS, NEW APPLICANTS/REINSTATEMENTS**

**Executive Session:** **MOTION** was made by Dr. Kovnat and **SECONDED** by Dr. Crespin to go into executive session to discuss matters of licensure and discipline. **YES:** Dr. Kovnat, Dr. Miller, Dr. Jenkusky, Dr. Wehr, Ms. Cochran, Ms. Abeles and Mr. Bourbon. **RECUSED:** Dr. Weiner and Dr. Crespin. **MOTION CARRIED.**  
The Board returned to open session. Dr. Kovnat stated for the record that the matters discussed in executive session were limited to only those specified in the motion for closure.

- **Robert Katz, M.D.** – Consider Settlement – Case #2009-018. **MOTION** was made by Dr. Kovnat to accept the Agreed Order as amended; the second paragraph was amended to add new language to paragraph 2 “without adjudication by the Medical Board regarding the allegations contained in the NCA” and striking paragraph 3 “WHEREAS, Respondent does not admit any wrongdoing; and”. Also, Dr. Kovnat designated Dr. Miller to execute the Agreed Order on behalf of the Board. Dr. Miller **SECONDED**. **YES:** Dr. Kovnat, Dr. Miller, Dr. Wehr, Dr. Jenkusky, Ms. Abeles and Mr. Bourbon. **NO:** Ms. Cochran. **RECUSED:** Dr. Weiner and Dr. Crespin. **MOTION CARRIED.**
- **James Hartenbach, M.D.** – Consider Settlement – Case #2009-031. Dr. Kovnat **MOVED** to accept the Agreed Order as presented to allow Dr. Hartenbach to surrender his New Mexico license to practice medicine. Dr. Weiner **SECONDED**. **YES:** Dr. Kovnat, Dr. Weiner, Dr. Miller, Dr. Crespin, Dr. Wehr, Ms. Cochran, Ms. Abeles and Mr. Bourbon. **RECUSED:** Dr. Jenkusky. **MOTION CARRIED.**

- **Elias Said, M.D.** – Consider request to grant a Resident/Training License. **MOTION** was made by Dr. Weiner to **GRANT** a resident/training license for Dr. Said to enter a mini sabbatical program at UNM. **SECONDED** by Dr. Miller. **YES:** Dr. Kovnat, Dr. Weiner, Dr. Crespin, Dr. Miller, Dr. Jenkusky, Dr. Wehr, Ms. Cochran, Ms. Abeles and Mr. Bourbon. **MOTION CARRIED.**
- **Abdul Qureshi, M.D.** - Request exception to 7 year rule and grant unrestricted medical license. **MOTION** was made by Dr. Crespin to **GRANT** an exception to the 7 year rule for completion of all three steps of the USMLE based on the Rules and grant an unrestricted license to practice medicine in New Mexico. **SECONDED** by Dr. Weiner. **YES:** Dr. Kovnat, Dr. Weiner, Dr. Crespin, Dr. Miller, Dr. Jenkusky, Dr. Wehr, Ms. Cochran, Ms. Abeles and Mr. Bourbon. **MOTION CARRIED.**

**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. Kovnat, Dr. Miller, Dr. Jenkusky, Dr. Wehr, Ms. Cochran, Ms. Abeles and Mr. Bourbon. **RECUSED:** Dr. Weiner and Dr. Crespin. **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.

## 8. INVESTIGATIONS

- Complaint Committee A:

**RECOMMENDATION** was made by Dr. Weiner to close complaint cases 2009-A-168 and 2009-A-202, as there was no evidence of a violation of the Medical Practice Act or rules.

**YES:** Dr. Kovnat, Dr. Miller, Dr. Crespin, Dr. Jenkusky, Ms. Abeles, Ms. Cochran and Mr. Bourbon. **ABSTAINED:** Dr. Weiner and Dr. Wehr. **RECOMMENDATION PASSED.**

**CASE NO. 2009-A-205. RECOMMENDATION** was made by Dr. Weiner that physician be referred to MTP for a collateral assessment prior to February 1st. If physician does not accept the referral, issue a Notice of Contemplated Action based on failure to cooperate with a Board investigation, failure to report his arrest as required, and misrepresentation in applying for and/or renewing his license. The case will remain open until the assessment report is received and will be taken back to the Board in February.

**YES:** Dr. Kovnat, Dr. Miller, Dr. Crespin, Dr. Jenkusky, Ms. Abeles, Ms. Cochran and Mr. Bourbon. **ABSTAINED:** Dr. Weiner and Dr. Wehr. **RECOMMENDATION PASSED.**

- Complaint Committee B:

**CASE NO. 2008-B-165. RECOMMENDATION** was made by Dr. Miller to close the case and send an advisory letter to physician regarding patient communication and reminding physician that cooperation with a Board investigation is expected. **YES:** Dr. Weiner, Dr. Kovnat, Dr. Wehr, Dr. Crespin, Dr. Jenkusky, Ms. Abeles and Mr. Bourbon. **ABSTAINED:** Dr. Miller and Ms. Cochran. **MOTION CARRIED**

**CASE NO. 2009-B-228 ( [REDACTED] ). RECOMMENDATION** was made by Dr. Miller to issue a Notice of Contemplated Action based on misrepresentation in applying for a license to practice medicine. **YES:** Dr. Weiner, Dr. Kovnat, Dr. Wehr, Dr. Crespin, Dr. Jenkusky, Ms. Abeles and Mr. Bourbon. **ABSTAINED:** Dr. Miller and Ms. Cochran. **MOTION CARRIED**

- Complaint Committee C:  
**CASE NO. 2009-C-230. RECOMMENDATION** was made by Ms. Abeles to close complaint case 2009-C-230, as there was no evidence of a violation of the Medical Practice Act or rules and grant physician an unrestricted license to practice medicine in New Mexico. **YES:** Dr. Kovnat, Dr. Miller, Dr. Wehr, Dr. Jenkusky, Dr. Miller, Ms. Cochran and Mr. Bourbon. **ABSTAINED:** Dr. Crespin and Ms. Abeles. **RECOMMENDATION PASSED.**
- Complaint Committee E:  
**CASE NO. 2009-E-255 ( [REDACTED] ). RECOMMENDATION** was made by Dr. Kovnat to issue a Notice of Contemplated Action based on physician's violation of the terms of his January 2009 Board Order with regard to adhering to all Federal and State laws, and conduct relating to controlled drugs that reasonably indicates to the Board that physician is incapable or unwilling to engage in rehabilitation. **YES:** Dr. Weiner, Dr. Wehr, Dr. Crespin, Dr. Jenkusky, Dr. Miller, Ms. Cochran Ms. Abeles and Mr. Bourbon. **ABSTAINED:** Dr. Kovnat. **MOTION CARRIED**

**9. INVESTIGATIONS DEPARTMENT**

**NM CME Credit Hours for Experts – Request approval for granting NM specific CME hours to experts reviewing investigation cases.** Ms. Dieterich discussed that the Investigation Department would like to offer continuing medical education hours as an added incentive to potential experts who are reviewing their investigation cases as a service to the Board. The Department is having difficulty obtaining experts with the minimal fee that the Board offers. The NM Medical Society has agreed to certify a maximum of ten continuing medical educational hours to these experts. Dr. Weiner **MOVED** to accept the incentive of ten continuing medical education hours for experts. **SECONDED** by Dr. Wehr. **YES:** Dr. Weiner, Dr. Kovnat, Dr. Crespin, Dr. Miller, Dr. Jenkusky, Dr. Wehr, Ms. Cochran, Ms. Abeles and Mr. Bourbon. **MOTION CARRIED.**

**10. ADJOURN:** There being no further business, the meeting adjourned at 5:14 p.m.

**SUBMITTED:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
 Lynn Hart, Executive Director

**APPROVED:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
 Paul Kovnat, M.D., Chair