

NEW MEXICO MEDICAL BOARD
Interim Board Meeting
June 28, 2018
MINUTES

Members Present: Steve Jenkusky, MD, Chair
Peter Beaudette, MD, Vice Chair
Steve Komadina, MD, Secretary/Treasurer
D. Charles Otero, PA
James Spence, MD
Sebastian Dunlap, Esq., Public Member
Phillip Styka, MD

Teleconference: Karen Carson, MD

Excused: Jennifer Anderson, Esq., Public Member

Other Staff Present: Sondra Frank, J.D., Executive Director
Debbie Dieterich, Investigations Manager
Amanda Quintana, Compliance Manager
Yvonne Chicoine, Prosecutor
Samantha Breen, Administrative Assistant

1. CALL TO ORDER / ROLL CALL

Dr. Jenkusky determined that a quorum was present and called the Interim Board Meeting of the New Mexico Medical Board to order at 4:00 p.m.

Dr. Jenkusky introduced and welcomed Mr. Otero to the Board.

2. APPROVAL OF AGENDA

MOTION was made by Dr. Jenkusky to approve the Agenda. **SECONDED** by Dr. Beaudette. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Komadina, Dr. Spence, Mr. Dunlap, Dr. Styka and Dr. Carson. **ABSTAIN:** Mr. Otero. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

3. APPROVAL OF MINUTES

MOTION was made by Dr. Jenkusky to accept and approve the minutes of the May 10-11, 2018 Board Meeting as presented. **SECONDED** by Dr. Beaudette. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Komadina, Dr. Spence, Mr. Dunlap, Dr. Styka and Dr. Carson. **ABSTAIN:** Mr. Otero. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

4. Chair Report

Dr. Jenkusky reported that he and Randy Marshall visited the Burrell College of Osteopathic Medicine. He said the Board is going to revisit the possibility of the Medical Board and Osteopathic Board merging during the 2019 Legislative Session.

Dr. Jenkusky also reported that he and Ms. Frank are invited to speak at the Medical Society Meeting in September and Dr. Jenkusky will be speaking at the next GAMA meeting about the Board and question number 18 on the Boards initial application and renewal regarding mental health status.

5. Executive Director

Ms. Frank elaborated on the issue about question number 18 on the Boards initial application and renewal regarding mental health status. She reported that NMMB staff met with the people who are requesting the changes to question number 18 and they really like the language that Dr. Styka proposed at the Board's last meeting. We will have a proposed language change to the Board at their August meeting.

Ms. Frank also reported that she is working with FSMB to get the Interstate Compact going. She also said she met with Legislative Finance Committee and they recommended that now is the time for statutory changes and possibly raising fees if needed.

EXECUTIVE SESSION: Complaint Committee Reports / Licensing Requests and Actions

MOTION was made by Dr. Jenkusky 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. Beaudette. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Komadina, Mr. Otero, Dr. Spence, Mr. Dunlap, Dr. Styka and Dr. Carson. **ABSENT:** Ms. Anderson. **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

Complaint Committee A

Case #2016-A-323 RECOMMENDATION was made by Dr. Beaudette to close this case with an advisory letter advising physician that although he no longer prescribes outside of his anesthesia practice, the Board will still be monitoring any prescription writing practices. **YES:** Dr. Jenkusky, Dr. Komadina, Dr. Spence, Mr. Dunlap and Dr. Styka. **RECUSED:** Dr. Beaudette and Dr. Carson. **ABSTAIN:** Mr. Otero. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

Complaint Committee B

Case #2018-B-026 RECOMMENDATION was made by Dr. Jenkusky to close of this case with an advisory letter on disclosing accurate and truthful information on renewal applications and assess a \$300 investigation cost for misrepresentations on renewals. This is not reportable. **YES:** Dr. Beaudette, Mr. Otero, Dr. Spence, Mr. Dunlap, Dr. Styka and Dr. Carson. **RECUSED:** Dr. Jenkusky, Dr. Komadina. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

Case #2018-B-080 RECOMMENDATION was made by Dr. Jenkusky to offer physician the chance to voluntarily surrender his medical license, and if he does not accept, then a notice of contemplated action will be issued based on, but not limited to, sexual contact with a patient, conduct unbecoming, and ethics violations. **YES:** Dr. Beaudette, Mr. Otero, Dr. Spence, Mr. Dunlap, Dr. Styka and Dr. Carson. **RECUSED:** Dr. Jenkusky, Dr. Komadina. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

Complaint Committee C

Case #2017-C-252 and Case #2018-C-112 RECOMMENDATION was made by Dr. Spence to offer physician the chance to inactivate her medical license effective immediately, with a provision that physician not be allowed to reactivate her license until the Board is provided with evidence that she is physically able to practice medicine and has obtained the educational needs to resolve her practice deficiencies. If physician does not accept, a summary suspension will be issued based on imminent danger to the public, along with a notice of contemplated action based on, but not limited to, habitual or excessive use of intoxicants, manifest incapacity to practice, misrepresentation on a renewal application, conduct likely to harm, injudicious prescribing, improper management of medical records, and conduct unbecoming. **YES:** Dr. Komadina, Mr. Otero, Dr. Beaudette, Dr. Styka and Dr. Carson. **RECUSED:** Dr. Jenkusky, Dr. Spence and Mr. Dunlap. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

Case #2018-C-115 RECOMMENDATION was made by Mr. Dunlap to offer physician applicant a stipulated license mirroring Colorado Medical Board's terms and conditions, requiring the monitoring of physician applicant's practice by CPEP until such time it is determined by CPEP and the Board that

physician applicant can safely practice without stipulation. **YES:** Dr. Jenkusky, Dr. Komadina, Mr. Otero, Dr. Beaudette, Dr. Styka and Dr. Carson. **RECUSED:** Dr. Spence and Mr. Dunlap **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

Complaint Committee D

Case #2017-D-110 RECOMMENDATION was made by Dr. Styka to issue a notice of contemplated action based on, but not limited to, conviction of a crime, and conduct unbecoming. **YES:** Dr. Jenkusky, Dr. Komadina, Mr. Otero, Dr. Beaudette, Dr. Spence, Mr. Dunlap and Dr. Carson. **RECUSED:** Dr. Spence and Mr. Dunlap **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

Case #2018-D-060 RECOMMENDATION was made by Dr. Styka to offer physician applicant a stipulated license that imposes a \$1000 fine and assesses \$450 in costs for his misrepresentations, with the stipulation being removed after the fine and costs are paid. If physician applicant does not accept, a notice of contemplated action will be issued based on, but not limited to, misrepresentation on an application for licensure and conduct unbecoming. **YES:** Dr. Jenkusky, Dr. Komadina, Mr. Otero, Dr. Beaudette, Dr. Spence, Mr. Dunlap and Dr. Carson. **RECUSED:** Dr. Spence and Mr. Dunlap **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

Case #2018-D-121 RECOMMENDATION was made by Dr. Styka to offer physician the chance to voluntarily surrender his license. If he does not accept, a notice of contemplated action will be issued based on, but not limited to, habitual or excessive use of intoxicants, conduct likely to deceive or harm the public, violation of a board stipulation, and dishonesty. **YES:** Dr. Jenkusky, Dr. Komadina, Mr. Otero, Dr. Beaudette, Dr. Spence, Mr. Dunlap and Dr. Carson. **RECUSED:** Dr. Spence and Mr. Dunlap **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

7. Executive Committee Report

None

8. Licensing Requests and Actions, New Applicants / Reinstatements:

James Marc Beverly, PA - Case No. 2017-039 – Decision and Order:

MOTION was made by Dr. Jenkusky to accept the Hearing Officers Report **SECONDED** by Dr. Beaudette. **YES:** Dr. Jenkusky, Dr. Beaudette, Mr. Otero, Dr. Komadina, Dr. Spence, Mr. Dunlap, Dr. Styka and Dr. Carson. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

MOTION was made by Dr. Jenkusky to accept the following violations as conclusions of law: §61-6-15 (8), (18), (21) and (29), and applicable regulations found in Title 16, Chapter 10 NMAC, and applicable AMA Code of Ethics adopted under 16.10.8.9 NMAC. **SECONDED** by Dr. Spence. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Komadina, Dr. Spence, Mr. Dunlap, Dr. Styka and Dr. Carson. **ABSTAIN:** Mr. Otero. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

MOTION was made by Dr. Jenkusky to **REVOKE** Mr. James Marc Beverly's license to practice medicine. **SECONDED** by Dr. Spence. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Komadina, Dr. Spence, Mr. Dunlap, Dr. Styka and Dr. Carson. **ABSTAIN:** Mr. Otero. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

John Bray-Morris, MD – Case no. 2017-002 – Consider Possible Settlement.

MOTION was made by Dr. Jenkusky to **ACCEPT** the Settlement as presented. **SECONDED** by Mr. Dunlap. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Komadina, Mr. Otero, Dr. Spence, Mr. Dunlap, Dr. Styka and Dr. Carson. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

Aibek Mirrachimov, MD – Approve PGT License Application based on FCSA evaluation of Medical School. **MOTION** was made by Dr. Jenkusky to **GRANT** Dr. Mirrachimov an unrestricted

license. **SECONDED** by Dr. Beaudette. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Komadina, Mr. Otero, Dr. Spence, Mr. Dunlap, Dr. Styka and Dr. Carson. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

Sitaramakrishna Kothalanka, MD – Consider Joint Motion for Approval of Agreed Order for Withdrawal of Initial Application While Under Investigation. MOTION was made by Dr. Jenkusky to **ACCEPT** the agreed order as presented. **SECONDED** by Dr. Beaudette. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Komadina, Mr. Otero, Dr. Spence, Mr. Dunlap, Dr. Styka and Dr. Carson. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

9. Compliance Requests:

Miles Nelson, MD – License no. 93-346 – Request for Reactivation of License. – MOTION was made by Dr. Jenkusky to **REACTIVATE** Dr. Nelson’s NM Medical License with previous stipulation. **SECONDED** by Dr. Beaudette. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Komadina, Mr. Otero, Dr. Spence, Mr. Dunlap, Dr. Styka and Dr. Carson. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

10. ADJOURN - There being no further business before the Board, Dr. Jenkusky adjourned the meeting at 5:55 p.m.

SUBMITTED BY: _____ DATE: _____
Sondra Frank, J.D., Executive Director

APPROVED BY: _____ DATE: _____
Steve Jenkusky, MD, Chair

APPROVED BY: _____ DATE: _____
Steve Komadina, MD, Secretary