

NEW MEXICO MEDICAL BOARD
Regular Board Meeting
November 1-2, 2018
DRAFT MINUTES

Members Present: Steve Jenkusky, MD, Chair
Peter Beaudette, MD, Vice-Chair
Steve Komadina, MD, Secretary/Treasurer
James Spence, MD
Karen Carson, MD
Jennifer Anderson, Esquire, Public Member
Philip Styka, MD
Sebastian Dunlap, Esquire, Public Member (Arrived at 8:43)
Charles D. Otero, PA

Absent: Sebastian Dunlap, Esquire, Public Member (November 2, 2018)

Others Present: Sondra Frank, J.D., Executive Director
Yvonne Chicoine, J.D., Chief Legal Counsel
C. Grant La Farge, MD, Medical Director
Gayle Mascarenas, CFO/HR Manager
Barbara Orender, Licensing Manager
Debbie Dieterich, Investigations Manager
Samantha Breen, Administrative Assistant
Amanda Quintana, Compliance Manager / PIO

1. CALL TO ORDER / ROLL CALL

Dr. Jenkusky, after establishing the presence of quorum, called the Regular Board Meeting of the New Mexico Medical Board to order at 8:35 a.m., Roll Call was completed.

2. APPROVAL OF AGENDA

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

3. APPROVAL OF MINUTES

MOTION was made by Dr. Jenkusky to accept and approve the minutes of the September 27, 2018 Interim Board Meeting as presented. **SECONDED** by Ms. Anderson **YES:** Dr. Jenkusky, PA Otero, Dr. Beaudette; Dr. Komadina, Dr. Spence, Dr. Carson, Ms. Anderson and Dr. Styka. **ABSENT:** Mr. Dunlap. **MOTION CARRIED.**

EXECUTIVE SESSION: Complaint Committee Reports / Executive Committee Report / Licensing Issues, New Applicants / Reinstatements / Board Attorney Report

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 Ms. Anderson. **YES:** Dr. Jenkusky, PA Otero, Dr. Beaudette; Dr. Komadina, Dr. Spence, Dr. Carson, Ms. Anderson and Dr. Styka. **ABSENT:** Mr. Dunlap. **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.

4. ACTIONS RELATED TO EXECUTIVE SESSION

Complaint Committee A

RECOMMENDATION was made by Dr. Carson to **CLOSE** Case #2017-A-207; 2017-A-208; 2017-A-269; 2018-A-014; 2018-A-068; 2018-A-125 and 2018-A-146. **YES:** Dr. Jenkusky, PA Otero; Dr. Komadina, Dr. Spence, Ms. Anderson, Dr. Styka and Mr. Dunlap. **RECUSED:** Dr. Carson and Dr. Beaudette.

Case #2017-A-289 RECOMMENDATION was made by Dr. Carson to close this case with an advisory letter on professional communications and reminding physician that DEA number is required to be on script pad. **YES:** Dr. Jenkusky, PA Otero; Dr. Komadina, Dr. Spence, Ms. Anderson, Dr. Styka and Mr. Dunlap. **RECUSED:** Dr. Carson and Dr. Beaudette.

Complaint Committee B

RECOMMENDATION was made by PA Otero to **CLOSE** Case #2017-B-140; 2017-B-203; 2017-B-281; 2017-B-285 and 2018-B-069. **YES:** Dr. Beaudette; Dr. Komadina, Dr. Spence, Dr. Carson, Dr. Styka Ms. Anderson and Mr. Dunlap **RECUSED:** Dr. Jenkusky, PA Otero

Case #2018-B-065 RECOMMENDATION was made by PA Otero to **CLOSE** this case with an advisory letter on signing death certificates in a timely manner pursuant to state law. **YES:** Dr. Beaudette; Dr. Komadina, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Dunlap **RECUSED:** Dr. Jenkusky and PA Otero.

Case #2018-B-109 RECOMMENDATION was made by PA Otero to **CLOSE** this case with an advisory letter reminding physician about new reporting regulation that requires physician to report adverse licensure action and accessing \$150 non-disciplinary administrative fee for failure to report. **YES:** Dr. Beaudette; Dr. Komadina, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Dunlap **RECUSED:** Dr. Jenkusky and PA Otero.

Case #2018-B-207 RECOMMENDATION was made by PA Otero to **CLOSE** this case with an advisory letter reminding physician about the Board's regulation on timely release of medical records and patient communication. **YES:** Dr. Beaudette; Dr. Komadina, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Dunlap **RECUSED:** Dr. Jenkusky and PA Otero.

Case #2018-B-030 RECOMMENDATION was made by Dr. Jenkusky to issue a notice of contemplated action based on, but not limited to, misrepresentation on renewal applications; the use of a false, fraudulent or deceptive statement in a document connected with the practice of medicine; injudicious prescribing; conduct likely to deceive; repeated similar negligent acts; conduct unbecoming; improper management of medical records; violation of a drug law; and violation of the Board's Regulation on PMP use. **YES:** Dr. Beaudette; Dr. Komadina, Dr. Spence, Ms. Anderson, Dr. Styka and Mr. Dunlap **RECUSED:** Dr. Jenkusky, Dr. Carson and PA Otero.

Case #2018-B-039 RECOMMENDATION was made by Dr. Jenkusky to issue a notice of contemplated action based on, but not limited to, creating a false statement in a document connected with the practice of medicine; violation of a drug law; improper management of medical records; injudicious prescribing; habitual/excessive use of a substance; conduct unbecoming; and Violation of Board Regulation on PMP Use. **YES:** Dr. Beaudette; Dr. Komadina, Dr. Spence, Ms. Anderson, Dr. Styka and Mr. Dunlap **RECUSED:** Dr. Jenkusky, Dr. Carson and PA Otero.

Case #2018-B-040 RECOMMENDATION was made by Dr. Jenkusky to issue a notice of contemplated action based on, but not limited to, injudicious prescribing; misrepresentation on a renewal application; violation of Board Regulation on prescribing opioids for chronic pain; violation of Board Regulation on taking opioids for chronic pain; improper management of medical records; and conduct unbecoming.

YES: Dr. Beaudette; Dr. Komadina, Dr. Spence, Ms. Anderson, Dr. Styka and Mr. Dunlap **RECUSED:** Dr. Jenkusky, Dr. Carson and PA Otero.

Complaint Committee C

RECOMMENDATION was made by Dr. Spence to **CLOSE** Case #2017-C-141; 2017-C-162; 2017-C-186; 2017-C-236 and 2017-C-267. **YES:** Dr. Jenkusky, PA Otero, Dr. Beaudette; Dr. Komadina, Dr. Carson, Ms. Anderson and Dr. Styka. **RECUSED:** Dr. Spence and Mr. Dunlap.

Case #2017-C-129 RECOMMENDATION was made by Dr. Spence to **CLOSE** this case with an advisory letter relating to Board's concern on lack of supervision of PA by a supervising physician in the patient's care; inadequacy of the patient evaluation; and the lack of information in the medical records on patient. Copy will be sent to supervising physician. **YES:** Dr. Jenkusky, PA Otero, Dr. Beaudette; Dr. Komadina, Dr. Carson, Ms. Anderson and Dr. Styka. **RECUSED:** Dr. Spence and Mr. Dunlap.

Case #2018-C-027 RECOMMENDATION was made by Dr. Spence to **CLOSE** this case with an advisory letter on maintaining professional conduct at all times. **YES:** Dr. Jenkusky, PA Otero, Dr. Beaudette; Dr. Komadina, Dr. Carson, Ms. Anderson and Dr. Styka. **RECUSED:** Dr. Spence and Mr. Dunlap.

Case #2018-C-127 RECOMMENDATION was made by Dr. Spence to **CLOSE** this case with an advisory letter on Board's regulation on reporting requirement and assessing \$600 non-disciplinary administrative costs for failure to report 4 board actions. **YES:** Dr. Jenkusky, PA Otero, Dr. Beaudette; Dr. Komadina, Dr. Carson, Ms. Anderson and Dr. Styka. **RECUSED:** Dr. Spence and Mr. Dunlap.

Case #2017-C-044 RECOMMENDATION was made by Dr. Spence to offer the physician the chance to either voluntarily surrender her license, or enter into an order with the Board inactivating her license with terms and conditions on reinstatement of license and issuance of a notice of contemplated action based on, but not limited to, violation of board regulation, conduct unbecoming and failure to cooperate with the Board. **YES:** Dr. Jenkusky, PA Otero, Dr. Beaudette; Dr. Komadina, Dr. Carson, Ms. Anderson and Dr. Styka. **RECUSED:** Dr. Spence and Mr. Dunlap.

Case #2017-C-252 and 2018-C-112 RECOMMENDATION was made by Dr. Spence to offer physician the chance to voluntarily surrender her license or a notice of contemplated action will be issued, based on, but not limited to, incompetency to practice. **YES:** PA Otero, Dr. Beaudette; Dr. Komadina, Dr. Carson, Ms. Anderson and Dr. Styka. **RECUSED:** Dr. Jenkusky, Dr. Spence and Mr. Dunlap.

Complaint Committee D

RECOMMENDATION was made by Dr. Komadina to **CLOSE** Case #2017-D-016, 2017-D-180 and 2018-D-066. **YES:** Dr. Jenkusky; PA Otero; Dr. Beaudette; Dr. Spence; Dr. Carson; Ms. Anderson and Mr. Dunlap. **RECUSED:** Dr. Komadina and Dr. Styka.

Case #2017-D-226 RECOMMENDATION was made by Dr. Komadina to offer physician the chance to accept a stipulation of licensure with a permanent restriction on her prescribing controlled substances for chronic pain and a temporary restriction on the prescribing of schedules II and III for acute pain until she successfully completes a course on controlled substance prescribing. If she does not accept, a notice of contemplated action will be issued based on, but not limited to, injudicious prescribing; failure to comply with Board Regulation on Prescribing for chronic Pain; and repeated similar negligent acts. **YES:** Dr. Jenkusky; PA Otero; Dr. Beaudette; Dr. Spence; Dr. Carson; Ms. Anderson and Mr. Dunlap. **RECUSED:** Dr. Komadina and Dr. Styka.

Case #2017-D-245 RECOMMENDATION was made by Dr. Komadina to offer physician an interim order requiring inactivation of his medical license pending disposition of other state medical board final action. If physician does not accept, a notice of contemplated action will be issued based on, but not limited to, incompetency to practice and adverse licensure action in another state. **YES:** Dr. Jenkusky;

PA Otero; Dr. Beaudette; Dr. Spence; Dr. Carson; Ms. Anderson and Mr. Dunlap. **RECUSED:** Dr. Komadina and Dr. Styka.

Case #2017-D-264 RECOMMENDATION was made by Dr. Komadina to offer physician a stipulated license mirroring the Texas medical board's terms and conditions, along with the issuance of a reprimand plus costs. If physician does not accept, a notice of contemplated action will be issued based on, but not limited to, repeated negligent acts; incompetency to practice; adverse licensure action in another state; and failure to report adverse action. **YES:** Dr. Jenkusky; PA Otero; Dr. Beaudette; Dr. Spence; Dr. Carson; Ms. Anderson and Mr. Dunlap. **RECUSED:** Dr. Komadina and Dr. Styka.

Case #2018-D-024 RECOMMENDATION was made by Dr. Komadina to issue a cease and desist letter against Unlicensed PA and referral to the Attorney General's Office for criminal matters. **YES:** Dr. Jenkusky; PA Otero; Dr. Beaudette; Dr. Spence; Dr. Carson; Ms. Anderson and Mr. Dunlap. **RECUSED:** Dr. Komadina and Dr. Styka.

Case #2018-D-185 RECOMMENDATION was made by Dr. Komadina to offer physician a stipulated license requiring mandatory participation in the NM HPWP. If physician does not accept, a notice of contemplated action will be issued based on, but not limited to, habitual/excessive use of alcohol. **YES:** Dr. Jenkusky; PA Otero; Dr. Beaudette; Dr. Spence; Dr. Carson; Ms. Anderson and Mr. Dunlap. **RECUSED:** Dr. Komadina and Dr. Styka.

Case #2018-D-219 RECOMMENDATION was made by Dr. Komadina offer physician applicant a stipulated license requiring mandatory participation in the NM HPWP. If physician does not accept, a notice of contemplated action will be issued based on, but not limited to, habitual/excessive use of alcohol. **YES:** Dr. Jenkusky; PA Otero; Dr. Beaudette; Dr. Spence; Dr. Carson; Ms. Anderson and Mr. Dunlap. **RECUSED:** Dr. Komadina and Dr. Styka.

Complaint Committee E

RECOMMENDATION was made by Ms. Anderson to **CLOSE** Case #2017-E-210 and 2018-E-286. **YES:** Dr. Jenkusky; PA Otero; Dr. Beaudette; Dr. Komadina; Dr. Spence; Dr. Carson; Dr. Styka and Mr. Dunlap. **RECUSED:** Ms. Anderson.

Case #2017-E-255 RECOMMENDATION was made by Ms. Anderson to offer resident an opportunity to enter into an Agreed Order with the Board in which he acknowledges termination from the UNM residency program. If he does not accept, a notice of contemplated action will be issued based on, but not limited to, conduct unbecoming. **YES:** PA Otero; Dr. Beaudette; Dr. Komadina; Dr. Spence; Dr. Carson; Dr. Styka and Mr. Dunlap. **RECUSED:** Ms. Anderson and Dr. Jenkusky.

Case #2017-E-263 RECOMMENDATION was made by Ms. Anderson to offer physician the chance to voluntarily surrender his license; or enter into a stipulation of licensure where he inactivates license while under investigation and requiring a physical and mental exam by a board approved healthcare provider and payment of a \$3000 fine to be paid prior to reinstatement of license. If he does not accept either option, then a notice of contemplated action will be issued based on, but not limited to, adverse licensure action in another state, conduct unbecoming and failure to cooperate with a board investigation. **YES:** Dr. Jenkusky; PA Otero; Dr. Beaudette; Dr. Komadina; Dr. Spence; Dr. Carson; Dr. Styka and Mr. Dunlap. **RECUSED:** Ms. Anderson.

Case #2018-E-179 RECOMMENDATION was made by Ms. Anderson to offer physician a stipulation of licensure requiring mandatory participation in the NM HPWP. If physician does not accept, a notice of contemplated action will be issued based on, but not limited to, habitual/excessive use of alcohol or substances. **YES:** Dr. Jenkusky; PA Otero; Dr. Beaudette; Dr. Komadina; Dr. Spence; Dr. Carson; Dr. Styka and Mr. Dunlap. **RECUSED:** Ms. Anderson.

Case #2018-E-183 RECOMMENDATION was made by Ms. Anderson to offer physician a stipulation of licensure with the issuance of a reprimand. The stipulation would be lifted once the physician has made payment of a fine up to \$2000. If physician does not accept, a notice of contemplated action will be issued based on, but not limited to, misrepresentation on application; dishonesty and conduct unbecoming. **YES:** Dr. Jenkusky; PA Otero; Dr. Beaudette; Dr. Komadina; Dr. Spence; Dr. Carson; Dr. Styka and Mr. Dunlap. **RECUSED:** Ms. Anderson.

Case #2018-E-218 RECOMMENDATION was made by Ms. Anderson to issue a cease and desist letter to unlicensed practitioner and referral to the Second Judicial DA's office for criminal matters. **YES:** Dr. Jenkusky; PA Otero; Dr. Beaudette; Dr. Komadina; Dr. Spence; Dr. Carson; Dr. Styka and Mr. Dunlap. **RECUSED:** Ms. Anderson.

Case #2018-E-220 RECOMMENDATION was made by Ms. Anderson to offer physician a stipulated license requiring mandatory participation in the NM HPWP. If physician does not accept, a notice of contemplated action will be issued based on, but not limited to, habitual/excessive use of alcohol. **YES:** Dr. Jenkusky; PA Otero; Dr. Beaudette; Dr. Komadina; Dr. Spence; Dr. Carson; Dr. Styka and Mr. Dunlap. **RECUSED:** Ms. Anderson.

5. ACTIONS RELATED TO EXECUTIVE SESSION

None

6. LICENSING ISSUES, NEW APPLICANTS / REINSTATEMENTS

Bishnu Rauth, MD Case No. 2017-027 – Motion for Costs.

MOTION was made by Dr. Jenkusky to approve the Motion for Reimbursement of Costs. **Seconded** by Dr. Carson. **YES:** Dr. Jenkusky, PA Otero, Dr. Beaudette, Dr. Komadina, Dr. Spence, Dr. Carson; Ms. Anderson; Dr. Styka and Mr. Dunlap. **MOTION CARRIED.**

Elizabeth Palmer, MD – Request for Declaratory Ruling.

Decision moved to Friday, November 2, 2018.

Ferial Abood, MD – Motion for Reconsideration of Imposition of Fees.

Matthew Rappaport, Attorney for Dr. Abood and Yvonne Chicoine, NMMB Prosecuting Attorney were given time for oral argument.

MOTION was made by Dr. Jenkusky to deny the Motion for Reconsideration of Imposition of Fees and the NMMB will provide a redacted copy of the experts invoice to Respondent's Counsel. **Seconded** by PA Otero. **YES:** Dr. Jenkusky, PA Otero, Dr. Beaudette, Dr. Komadina, Dr. Spence, Dr. Carson; Ms. Anderson; Dr. Styka and Mr. Dunlap. **MOTION CARRIED.**

Shawn Baker, MD – Consider Application after Voluntary Surrender and Review of CPEP Report.
TABLED

7. Board Attorney Report

Margaret McLean, J.D. – For review.

CLOSED SESSION: Compliance Report and New Mexico Health Professional Wellness Program Report

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. Komadina. **YES:** Dr. Jenkusky, PA Otero, Dr. Beaudette; Dr. Komadina, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Dunlap. **MOTION CARRIED.**

8. Board Monitored Compliance Report [Non MTP]

Ms. Quintana reviewed the compliance report and reported on the status of monitored licensees.

9. Lunch

10. New Mexico Health Professional Wellness Program Report (Formerly MTP)

Andrea Newman, Dan Collins, MD and Mary Lynn Griffin of the NMHPWP presented the status of all mandatory MTP participants and answered questions from the Board.

11. Informal Interviews

Erika Charley, MD; Johannes Heynkamp, MD; Patricia Lacy, MD (Telephonic); David Williams; Stephen Cain, MD; Erika Garbrecht, MD; Curtis Quintana, PA; Benjamin Stake, MD; Nina Nandy, MD; Kathleen Van Osten, MD.

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.

12. REPORTS

Financial /HR Manager

FY19 Budget/Revenue Status

- Ms. Mascarenas reported the FY19 Budget/Revenue Status ending September 30, 2018. The Budget and Revenue Status ending September 30, 2018 are as follows:
 - ✓ From July 1, 2018 through September 30, 2018 expenditures total \$429,714 (or 21.18%) of budgeted expenditures (Opbud \$2,028,700);
 - ✓ From July 1, 2018 through September 30, 2018 the agency collected revenues in the amount of \$232,959 (or 11.95%) of budgeted revenues of \$1,948,700. In FY19 the agency also budgeted \$80,000 fund balance which may be utilized toward the end of the fiscal year if expenditures exceed the budgeted revenues.
 - ✓ The audited Fund Balance on June 30, 2018 is **\$1,151,939**. The cash balance as of 10/30/18 is \$862,964
- Ms. Mascarenas referred the board members to the FY19 Statistics Summary that reflects the application/renewal and other fees that makes up the total revenues collected in FY19 beginning on 7/1/18 through 9/30/18 in the amount of \$232,959.
- Compliance with the 50% Rule: In FY19 as of 11/01/18 the agency has expended and committed via encumbrances a total of 41.5% of the operating budget. (8.5% operating budget is available through December 31, 2018).

FY20 Appropriation Request

- The FY20 Appropriation Request for the NM Medical Board was presented to the Legislative Finance Committee (LFC) on October 24, 2018, Ms. Frank and Ms. Mascarenas attended the hearing. The FY20 Appropriation Request consists of:

Personal services and employee benefits	\$1,330.7
Contractual services	\$ 364.1
Other	\$ 418.0
	Total: \$2,112.8

Sources consist of: **\$2,112.8 Other Revenues (\$100.0 – Additional BAR Authority requested)**

The agency is requesting 4.1% increase from the FY19 Operating Budget. The increase is in all categories, including funding for an additional FTE in personal services and employee benefits,

projected increase for a contract with a proposed escalation increase and an increase for professional services in addition to increase in operating costs consistent with FY18 actual expenditures in the category. The Board will need to vote to approve the FY20 Appropriation Request.

FY18 Annual Audit

- Ms. Mascarenas additionally reported that there is a letter from audit firm Robert J. Rivera, CPA, PC addressed to the Board regarding the FY18 agency audit. (This audit firm was contracted to perform the agency financial audit for 3-years (FY16, FY17 and FY18). The audit was performed in September and October, 2018 and is due to the State Auditor's Office by November 1, 2018. The audit exit meeting was held on October 29, 2018 which Ms. Frank and Ms. Mascarenas attended and Dr. Jenkusky attended via telephone. No audit findings were reported for FY18. After the audit has been released from the State Auditor's Office the audit firm will present the Audit Report to the Board at its next regular Board meeting and the Board will need to vote to approve the 2018 Financial Audit at that time.

Chair Report

Benzodiazepine Prescription Guidelines –

Dr. Jenkusky updated the Board that he is one of the representative's the Governor appointed to the NM Overdose Prevention and Pain Management Council. He is preparing Benzodiazepine Prescribing Guidelines and will hopefully have a draft of the guidelines for our next meeting so that they can be approved and adopted by the Board.

Dr. Jenkusky will be speaking at the Family Practice Meeting in December about the Board's view of physician wellness. He stated that he will use the FSMB Report regarding Physician Wellness and Burnout. He will also talk about the change to question 18 and the new reporting regulation.

Executive Director Report

Executive Order – Ms. Frank requested direction from the Board on the response to Governor Martinez' Executive Order 2018-037. There was a discussion regarding the subsection of the order on consumer choice, educational requirements being lowered and reducing fees to 75% of the national average. Ms. Frank stated that if we lowered our application fees it would drop a total of \$42,000 per fiscal year to the new rate, we would then need to have to have a rule change. There is also a provision regarding convictions stating that we cannot deny licensure unless the conviction directly relates to the licensee's ability to practice medicine, however we have several provisions in our statute that licensees have to be of good moral character and fit to practice medicine in NM, so this provision may not apply to us. Ms. Frank would like to create a sub-committee to review the order and bring back the finding at our next full Board Meeting. The Board directed Ms. Frank to have staff go through section by section of the order. Mr. Dunlap who is on the sub-committee will review staff's recommendations. The Board also directed Ms. Frank to check with the Governor's office to find out what applies to us.

Licensing Manager

CME Audit Results –

Ms. Orender reported that 10% of the Board's 2018 MD Renewals were audited on August 10, 2018. By October 3, 2018 12% had not complied with the audit. A reminder email was sent out and by October 31, 2018 only 5% had not complied. The Board directed Ms. Orender to send the 5% to Investigations for non-compliance with the audit. The Board also discussed fining the licensee for non-compliance in the amount of \$500.

Consider Requiring List of CME Upon Renewal –

Ms. Orender suggested having all our MD licensees upon renewal submit a list of their 75 CME's. The Board agreed and directed Ms. Orender to start requesting a list on the upcoming 2019 license renewal, however still continue the 10% CME Audit. Dr. Jenkusky suggested that the licensee shall submit a list of CME's upon renewal, if the same issues are still present next renewal cycle the Board will have a discussion regarding fining the licensee.

13. **New Business**
Upcoming Legislation Affecting NMMB.
No Discussion

Exemption for Traveling Sports Team Doctors.

Dr. Beaudette stated that the NM Medical Society would like a Good Samaritan clause to allow Visiting Sports Teams own physicians to treat their athletes on the field or at the facility. The Board had a discussion and decided to take the position to support the NM Medical Society on allowing visiting teams treat their own athletes.

MOTION: was made by Dr. Jenkusky in principal that the Board is in agreement with the intent of the Visiting Team Sportsmanship Act and support the NM Medical Society in allowing visiting teams be treated by their own physicians. **SECONDED:** Ms. Anderson **YES:** Dr. Jenkusky, PA Otero, Dr. Beaudette; Dr. Komadina, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Dunlap. **MOTION CARRIED.**

Proposed 2019 Board Meeting Dates.

2019 Board meeting dates were finalized and the meetings will be held on January 10, 2019 (Interim); February 21-22, 201 (Full); March 28, 2019 (Interim); May 16-17, 2019 (Full); June 27, 2019 (Interim); August 8-9, 2019 (Full); September 26, 2019 (Interim); November 14-15, 2019 (Full) and December 12, 2019 (Interim).

Proposed Newsletter.

Ms. Quintana presented the draft newsletter to the Board. The Board directed Ms. Quintana to add additional topics to the newsletter and provide them with an updated format.

ADJOURN

Dr. Jenkusky adjourned the first day [November 1, 2018] of the November Regular Board Meeting at 4:15 p.m.

Friday, November 2, 2018

Dr. Jenkusky reconvened the Medical Board and called the meeting to order at 8:35 a.m. on Friday, November 2, 2018; a quorum was present.

CLOSED SESSION: Informal Compliance Interviews Continued

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

14. **Informal Interviews**

Jenny Hargrove, MD (Telephonic); Marc O’Cleireachain, MD (Telephonic); Tracy Pritchard, MD (Telephonic); Frank Durso, MD and Adrian Morretti, MD.

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.

15. **Compliance Requests / Actions**

Frank Durso, MD – Request for Release from Stipulation.

MOTION was made by Dr. Jenkusky to release Dr. Durso from stipulation. **SECONDED** by Dr. Styka **YES:** Dr. Jenkusky, PA Otero, Dr. Beaudette; Dr. Komadina, Dr. Spence; Dr. Carson, Ms. Anderson and Dr. Styka. **ABSENT:** Mr. Dunlap. **MOTION CARRIED.**

Patricia Lacy, PA – Request to Inactivate License While Under Stipulation.

MOTION was made by Dr. Jenkusky to allow Dr. Lacy to inactivate license while under stipulation. **SECONDED** by Mr. Otero **YES:** Dr. Jenkusky, PA Otero, Dr. Beaudette; Dr. Komadina, Dr. Spence; Dr. Carson, Ms. Anderson and Dr. Styka. **ABSENT:** Mr. Dunlap. **MOTION CARRIED.**

16. Votes/Reconsiderations from the first day [November 1, 2018] of the November Regular Meeting

Elizabeth Palmer, MD – Request for Declaratory Ruling. (Tabled from Thursday, November 1, 2018)

MOTION was made by Dr. Jenkusky that Ms. Frank compose a response to the request for a declaratory ruling considering the advice and guidance by the Board. **SECONDED** by Ms. Anderson **YES:** Dr. Jenkusky, PA Otero, Dr. Beaudette; Dr. Komadina, Dr. Spence; Dr. Carson, Ms. Anderson and Dr. Styka. **ABSENT:** Mr. Dunlap. **MOTION CARRIED.**

MOTION was made by Dr. Komadina to reconsider the Board's decision on **Case # 2018-D-219** from Thursday, November 1, 2018. **SECONDED** by Dr. Carson **YES:** Dr. Jenkusky, PA Otero, Dr. Beaudette; Dr. Komadina, Dr. Spence; Dr. Carson, Ms. Anderson and Dr. Styka. **ABSENT:** Mr. Dunlap. **MOTION CARRIED.**

Case #2018-D-219 RECOMMENDATION was made by Dr. Komadina to issue applicant a full and unrestricted license **YES:** Dr. Jenkusky; PA Otero; Dr. Beaudette; Dr. Spence; Dr. Carson; Ms. Anderson and Mr. Dunlap. **RECUSED:** Dr. Komadina and Dr. Styka. **ABSENT:** Mr. Dunlap.

17. ACTIONS RELATED TO EXECUTIVE SESSION

None

18. Old Business

New Mexico Healthcare Workforce Committee Member –

Ms. Frank reminded the Board that Mr. Bourbon always served on the committee, however he is no longer on the Board. Ms. Frank wanted to know if any other member would like to be on the committee and Dr. Spence accepted.

Interstate Compact –

Ms. Frank updated the Board that we have a possible sponsor for the legislative session, Senator Bill O'Neill. Ms. Frank will be meeting with him after the Board meeting. Ms. Frank reported to the Board that we are scheduled to meet with the Legislative Health and Human Services Committee on November 9, 2018 where Ms. Quintana will be presenting to the Committee. Dr. Jenkusky, Dr. Baudette and Dr. Carson will try to attend the meeting.

DO Merger –

Ms. Frank updated the Board that there has not been any further action on the merger.

Chiropractors – School Accreditation Issues –

Ms. Frank updated the Board that the National University of Health Sciences accreditation is no longer on probation.

Naturopaths Update –

Ms. Frank updated the Board that the Naturopaths would like to be licensed under the Board, they have their legislation drafted and appeared before the Legislative Health and Human Services Committee. Ms. Frank sent a letter stating we are not opposed to housing them if they become licensed.

19. **Michael Landon, MD – PMP Rates, Overdose Death, PMP Use and Quarterly Prescribing Measures** – Dr. Landon presented to the Board the statistics of the Drug Overdose Deaths in NM in 2017, by drug class, the top 10 prescribing drugs, the rates by county, the opioid sales to pharmacies and total methadone purchased by business.

Dr. Landon also presented the NM Drug Overdose Prevention Quarterly Measures Report and the New Mexico Prescription Monitoring (PMP) Measures.

Debra Newman, PA-C – Buprenorphine Monoprodukt Prescribing, and ASAM

Recommendations- Ms. Newman presented to the Board the Virginia Board of Medicine Opioid and Buprenorphine Prescriber Regulation Guide and ASAM Recommendations. As well as a table of the Mono-Buprenorphine as a percentage of all Buprenorphine receiving patients.

Ms. Newman would like to start a conversation about limiting Buprenorphine Monoprodukt prescriptions to pregnant, nursing women and limiting to patients with pain and documenting intolerance. Ms. Newman will be presenting this information to Dr. Landon and Dr. Jenkusky will provide this information to the Pharmacy at Presbyterian for review.

20. **Financial / HR Manager (Vote moved from Thursday, November 1, 2018)**

FY20 Appropriation Request

- The FY20 Appropriation Request for the NM Medical Board was presented to the Legislative Finance Committee (LFC) on October 24, 2018, Sondra and I attend the hearing.

FY20 Appropriation Request		FY19 Operating Budget	
200	\$1,330.7	200	\$1,319.7
300	\$ 364.1	300	\$ 334.0
400	<u>\$ 418.0</u>	400	<u>\$ 375.0</u>
Total:	<u>\$ 2,112.8</u>	Total:	<u>\$2,028.7</u>

\$2,112.8 Other Revenues
Auth)

\$1,948.7 Other Revenues & \$80.0 FB (\$100.0—Add BAR

- The agency is requesting 4.1% increase from the FY19 Operating Budget. The increase is in all categories, including funding for an additional *FTE in personal services and employee benefits, projected increase for a contract with a proposed escalation increase and an increase for professional services in addition to increase in operating costs consistent with FY18 actual expenditures in the category. The Board will need to vote to approve the FY20 Appropriation Request.

The request for a full-time position is to provide assistance to the Compliance Department in education and outreach efforts to licensees in an effort to improve compliance with the Prescription Monitoring Program (PMP). Increasing the number of compliance officers in the agency would allow the agency to increase the number of licensees contacted and work more in-depth with each licensee toward remediation in educating licensees in utilizing the PMP.

MOTION was made by Dr. Jenkusky to approve the FY20 Appropriation Request. **SECONDED** by Dr. Carson **YES:** Dr. Jenkusky, PA Otero, Dr. Beaudette; Dr. Komadina, Dr. Spence; Dr. Carson, Ms. Anderson and Dr. Styka. **ABSENT:** Mr. Dunlap. **MOTION CARRIED.**

21. **ADJOURN**

There being no further business before the Board, Dr. Jenkusky adjourned the meeting at 10:56 A.M.

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

APPROVED BY: _____ DATE: _____
Steven M. Jenkusky, M.D., Chair

APPROVED BY: _____ DATE: _____
Steve Komadina, M.D., Secretary Treasurer