

NEW MEXICO MEDICAL BOARD
Special Board Meeting
April 16, 2020
MINUTES

Members Present: Peter Beaudette, MD, Vice Chair – Via Zoom
James Spence, MD – Via Zoom

Video Conferencing: Karen Carson, MD
Eric Anderson, MD
Mark Unverzagt, MD
Buffie Saaverda, Public Member

Excused: Steve Jenkusky, MD, Chair

Others Present: Sondra Frank, Esquire, Executive Director – Via Zoom
Yvonne Chicoine, Esquire, Chief Legal Counsel-Via Zoom
Debbie Dieterich, Investigations Manager
Amanda Quintana, Compliance Manager / PIO
Elishia Lucero, Administrative Assistant

1. CALL TO ORDER / ROLL CALL

Dr. Beaudette, after establishing the presence of a quorum, called the Interim Board Meeting of the New Mexico Medical Board to order at 4:09 P.M., roll call was completed.

2. APPROVAL OF AGENDA

MOTION was made by Dr. Beaudette to approve the Agenda. **SECONDED** by Dr. Anderson **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **Excused:** Dr. Jenkusky. **MOTION CARRIED.**

3. APPROVAL OF MINUTES

MOTION was made by Dr. Beaudette to approve the minutes of the March 26, 2020 Interim Board Meeting as presented. **SECONDED** by Dr. Anderson **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **Excused:** Dr. Jenkusky. **MOTION CARRIED.**

Arlene Brown, MD – Decision and Order following Evidentiary Hearing.

Dr. Beaudette allowed Dr. Brown; her attorney, Arlyn Crow, Esq.; and the NMMB's Chief Legal Counsel Yvonne Chicoine, Esq. ten minutes each for oral argument.

Executive Session: Licensing Requests and Actions, New Applicants/Reinstatements:

MOTION was made by Dr. Beaudette 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. Anderson **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **Excused:** Dr. Jenkusky **MOTION CARRIED.**

OPEN SESSION

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

4. **Licensing Requests and Actions, New Applicants/Reinstatements:**

Arlene Brown, MD, Decision and Order following Evidentiary Hearing

MOTION was made by Dr. Beaudette to table the Motion to Strike the Prosecutions objections to the Hearing Officer's report submitted on April 6, 2020. **SECONDED** by Dr. Anderson **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **Excused:** Dr. Jenkusky **MOTION CARRIED**

MOTION was made by Dr. Beaudette to reject the Respondent's Objection and Responses to Prosecution's Response to the Hearing Officer's Factual Findings and Conclusions of Law Submitted on April 13, 2020 as untimely. **SECONDED** by Dr. Anderson **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **Excused:** Dr. Jenkusky **MOTION CARRIED**

MOTION was made by Dr. Beaudette to accept the Hearing Officer's Report with the following amendments: Adopt the Prosecutions objections and recommendations 1-19. **SECONDED** by Dr. Unverzagt **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **Excused:** Dr. Jenkusky **MOTION CARRIED**

MOTION was made by Dr. Unverzagt to accept the Prosecution's proposed Conclusions of Law with the following amendments: to limit paragraph E (2) to, "conduct likely to harm the public" and strike paragraph E(6) relating to the AMA Code of Ethics. **SECONDED** by Dr. Beaudette **YES:** Dr. Spence, Dr. Carson, Dr. Anderson Dr. Beaudette, Dr. Unverzagt, and Ms. Saavedra. **Excused:** Dr. Jenkusky **MOTION CARRIED.**

MOTION was made by Dr. Spence to issue Respondent a stipulated license requiring a restriction on Respondent's ability to prescribe controlled substances II, III and IV and complete a competency assessment through CPEP. Respondent is required to abide by all remediation recommendations, if any, set by CPEP. The Board has the discretion to impose further terms and conditions after review of the CPEP assessment. Respondent is to reimburse the Board the fees incurred in the investigation and prosecution of her case. Costs will be determined at a later date. **SECONDED** by Dr. Beaudette **YES:** Dr. Spence, Dr. Beaudette, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **Excused:** Dr. Jenkusky **MOTION CARRIED**

5. **Executive Director**

Ms. Frank reported to the Board that guidance was issued to licensees regarding the COVID-19 Pandemic by posting on the Boards website and via email blast. The guidance issued was regarding treating family members and themselves based on the AMA Code of Ethic's which states that only certain circumstances (exemptions) apply, such as, emergencies or short-term treatments.

Ms. Frank also reported that guidance was given regarding issuing death certificates during COVID-19; guidance from the Federal Government about prescribing/stockpiling of potential COVID-19 drugs and the closure of clinics during a pandemic. Ms. Frank reminded the Board of the Federal Emergency License the Board has instituted during the pandemic that requires very minimal documentation and allows physicians to be licensed within one week. Physicians may then convert their Federal Emergency license to a full unrestricted license upon renewal by submitting the outstanding licensing verifications.

6. **New Business**
Consider Federal Emergency Licensing Rule

16.10.2 NMAC- Physicians: Licensure Requirements

Ms. Quintana presented to the Board the addition of subsection D to the Federal Emergency Licensing rule for physicians, that allows physicians to renew their federal emergency license one time for a period of no more than twelve months at a prorated fee of \$200.00, provided that the federal emergency is still in effect. **MOTION** was made by Dr. Beaudette to approve the Federal Emergency Licensing Rule. **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt, and Ms. Saavedra. **Excused:** Dr. Jenkusky **MOTION CARRIED**

16.10.15 NMAC- Physician Assistants: Licensure and Practice Requirements

Ms. Quintana presented to the Board the addition of the Federal Emergency Licensing rule for physician assistants that allows the Board to waive certain documentation requirements for any new or pending application when a disaster delays the procuring of the required documents. The temporary federal emergency license may be renewed one time for a period of no more than twelve months with a prorated fee of \$75.00, provided that the federal emergency is still in effect. **MOTION** was made by Dr. Beaudette to approve the Federal Emergency Licensing Rule. **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt, and Ms. Saavedra. **Excused:** Dr. Jenkusky **MOTION CARRIED**

16.10.22 NMAC- Naturopathic Doctors: Licensure and Practice Requirements

Ms. Quintana presented to the Board the addition of the Federal Emergency Licensing rule for Naturopathic Doctors that allows the Board to waive certain documentation requirements for any new or pending application when the disaster delays or prohibits the procuring of the required documents. The temporary federal emergency license may be renewed one time for a period of no more than twelve months with a prorated fee of \$120.00, provided that the federal emergency is still in effect. **MOTION** was made by Dr. Beaudette to approve the Federal Emergency Licensing Rule. **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt, and Ms. Saavedra. **Excused:** Dr. Jenkusky **MOTION CARRIED**

16. **ADJOURN**

There being no further business before the Board, Dr. Beaudette adjourned the meeting at 6:30 P.M.

SUBMITTED BY:  DATE: 05/15/2020
Sondra Frank, J.D., Executive Director

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

APPROVED BY:  DATE: 05/15/2020
Peter Beaudette, M.D, Acting Chair