

NEW MEXICO MEDICAL BOARD
Regular Board Meeting
November 14-15, 2019
DRAFT MINUTES

Members Present: Steve Jenkusky, MD, Chair
Peter Beaudette, MD, Vice Chair
James Spence, MD
Karen Carson, MD (Excused 11/15/2019)
Eric Anderson, MD
Mark Unverzagt, MD
Jennifer Anderson, Esquire, Public Member (Excused 11/14/2019 – 11/15/2019)
Charles D. Otero, PA
Buffie Saavedra, Public Member (Excused 11/14/2019 – 11/15/2019)

Others Present: Sondra Frank, Esquire, Executive Director
Yvonne Chicoine, Esquire, Chief Legal Counsel
C. Grant La Farge, MD, Medical Director
Gayle Mascarenas, CFO/HR Manager
Antoinette Griego, Licensing Manager
Debbie Dieterich, Investigations Manager
Amanda Quintana, Compliance Manager / PIO
Samantha Breen, Compliance Coordinator

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 Dr. Anderson. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, Dr. Carson, PA Otero and Dr. Anderson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

3. APPROVAL OF MINUTES

MOTION was made by Dr. Jenkusky to accept and approve the minutes of the September 26, 2019 Interim Board Meeting as presented. **SECONDED** by PA Otero. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, Dr. Carson, PA Otero and Dr. Anderson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **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. Carson. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, Dr. Carson, PA Otero and Dr. Anderson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **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. Beaudette to **CLOSE** Case #2018-A-071; 2018-A-315;2019—A-126 and 2019-A-246. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Spence, Dr. Carson, PA Otero and Dr. Anderson. **RECUSED:** Dr. Beaudette. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2018-A-201 RECOMMENDATION was made by Dr. Beaudette to close this case with an advisory letter to physician relating to her responsibility to patients if she is the doctor on the daily schedule of optical store when patients are seen at optical store. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Spence, Dr. Carson, PA Otero and Dr. Anderson. **RECUSED:** Dr. Beaudette. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2018-A-231 RECOMMENDATION was made by Dr. Beaudette to close this case with an advisory letter to physician regarding physician's failure to timely communicate with patients. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Spence, Dr. Carson, PA Otero and Dr. Anderson. **RECUSED:** Dr. Beaudette. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2019-A-092 RECOMMENDATION was made by Dr. Beaudette to close this case with a strongly worded advisory letter to physician about her pattern of complaints from patients relating to records issues and reminding physician that the Board may initiate licensure action in the future if complaints continue. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Spence, Dr. Carson, PA Otero and Dr. Anderson. **RECUSED:** Dr. Beaudette. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2019-A-146 RECOMMENDATION was made by Dr. Beaudette to close this case with a strongly worded advisory letter to physician about her pattern of complaints from patients relating to records issues and reminding physician that the Board may initiate licensure action in the future if complaints continue. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Spence, Dr. Carson, PA Otero and Dr. Anderson. **RECUSED:** Dr. Beaudette. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2019-A-201 RECOMMENDATION was made by Dr. Beaudette to offer Physician offering physician a stipulated license requiring mandatory participation in NMHPWP; requirement to obtain psychiatric assessment at Acumen or Bradford; requirement to obtain and maintain a primary care physician; prohibiting physician from receiving prescriptions from family members; and payment of \$150 in costs for failure to report his arrest. If physician does not accept offer, a notice of contemplated action will be issued based on, but not limited to, conduct unbecoming and failure to report. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Spence, Dr. Carson, PA Otero and Dr. Anderson. **RECUSED:** Dr. Beaudette. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Complaint Committee B

RECOMMENDATION was made by Dr. Jenkusky to **CLOSE** Case #2017-B-271; 2018-B-054; 2018-B-074; 2018-B-105; 2018-B-156; 2018-B-171; 2019-B-009; 2019-B-010; 2019-B-118; 2019-B-181 and 2019-B-234 **YES:** Dr. Unverzagt, Dr. Beaudette, Dr. Spence, Dr. Carson and PA Otero. **RECUSED:** Dr. Jenkusky and Dr. Anderson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2018-B-316 RECOMMENDATION was made by Dr. Jenkusky to **CLOSE** this case with an advisory letter regarding the transmittal of positive test results to patients in a timely manner. **YES:** Dr. Unverzagt, Dr. Beaudette, Dr. Spence, Dr. Carson and PA Otero. **RECUSED:** Dr. Jenkusky and Dr. Anderson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2019-B-239 RECOMMENDATION was made by Dr. Jenkusky to **CLOSE** this case with an advisory letter reminding physician about the Board's regulations on timely release of medical records and provide a copy of the Board's regulation on same. **YES:** Dr. Unverzagt, Dr. Beaudette, Dr. Spence, Dr. Carson and PA Otero. **RECUSED:** Dr. Jenkusky and Dr. Anderson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2017-B-272 RECOMMENDATION was made by Dr. Jenkusky to issue a notice of contemplated action based on, but not limited to, conduct likely to deceive or harm the public, injudicious prescribing and gross negligence. A board complaint will be initiated against the Medical Director of NuMale. **YES:** Dr. Unverzagt, Dr. Beaudette, Dr. Spence, Dr. Carson and PA Otero. **RECUSED:** Dr. Jenkusky and Dr. Anderson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2018-B-240 RECOMMENDATION was made by Dr. Jenkusky to offer physician the following options: a stipulated license requiring successful completion of the chronic pain management course at CPEP, or comparable program approved by the Board; or a stipulated license restricting physician from practicing pain management; or issuance of a notice of contemplated action based on, but not limited to, injudicious prescribing. **YES:** Dr. Unverzagt, Dr. Beaudette, Dr. Spence, Dr. Carson and PA Otero. **RECUSED:** Dr. Jenkusky and Dr. Anderson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2019-B-002 RECOMMENDATION was made by Dr. Jenkusky to offer physician a stipulated license requiring a psychiatric evaluation by a provider approved by the Board, to be completed within three months, and to be submitted and reviewed by the Board with possible additional stipulations being imposed per the Board's discretion after that review; issuance of a reprimand; and payment of \$150 in costs for failure to report an adverse action to the Board as required. If Physician does not accept, a notice of contemplated action will be issued based on, but not limited to, conduct unbecoming, failure to report, misrepresentation on a renewal application and dishonesty. **YES:** Dr. Unverzagt, Dr. Beaudette, Dr. Spence, Dr. Carson and PA Otero. **RECUSED:** Dr. Jenkusky and Dr. Anderson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2019-B-006 RECOMMENDATION was made by Dr. Jenkusky to issue a cease and desist letter to unlicensed practitioner and referral to Attorney General's Office for further handling. **YES:** Dr. Unverzagt, Dr. Beaudette, Dr. Spence, Dr. Carson and PA Otero. **RECUSED:** Dr. Jenkusky and Dr. Anderson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Complaint Committee C

RECOMMENDATION was made by Dr. Spence to **CLOSE** Case #2018-C-007-; 2018-C-090; 2018-C-104; 2018-C-141; 2018-C-154; 2018-C-159; 2018-C-168; 2018-C-177; 2018-C-244; 2018-C-252; 2018-C-317; 2019-C-021; 2019-C-087; 2019-C-090 and 2019-C-192; **YES:** Dr. Jenkusky; Dr. Unverzagt, Dr. Beaudette, PA Otero and Dr. Anderson. **RECUSED:** Dr. Spence, Dr. Carson and Dr. Anderson recused on cases 2019-C-087 and 2019-C-290 **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2018-C-095 RECOMMENDATION was made by Dr. Spence to **CLOSE** this case with an advisory letter to Physician regarding patient communications and maintaining accurate medical records on patients. **YES:** Dr. Jenkusky; Dr. Unverzagt, Dr. Beaudette, PA Otero and Dr. Anderson. **RECUSED:** Dr. Spence, Dr. Carson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2018-C-142 RECOMMENDATION was made by Dr. Spence to **CLOSE** this case with an advisory letter to Physician regarding patient communications and maintaining accurate medical records on patients. **YES:** Dr. Jenkusky; Dr. Unverzagt, Dr. Beaudette, PA Otero and Dr. Anderson.

RECUSED: Dr. Spence, Dr. Carson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2019-C-035 RECOMMENDATION was made by Dr. Spence to **CLOSE** this case with an advisory letter regarding timely release of medical records and enclose a copy of the Board's Regulation on same. **YES:** Dr. Jenkusky; Dr. Unverzagt, Dr. Beaudette, PA Otero and Dr. Anderson. **RECUSED:** Dr. Spence, Dr. Carson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2019-C-241 RECOMMENDATION was made by Dr. Spence to **CLOSE** this case with an advisory letter recommending Physician consider chaperone be in room with patients if examining genitals and reminding physician to maintain communication with patients and their parents about exams prior to their occurrence. **YES:** Dr. Jenkusky; Dr. Unverzagt, Dr. Beaudette, PA Otero and Dr. Anderson. **RECUSED:** Dr. Spence, Dr. Carson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2019-C-248 RECOMMENDATION was made by Dr. Spence to **CLOSE** this case with an advisory letter on disclosing full information on application and assessing \$150 in costs and to issue unrestricted license. **YES:** Dr. Jenkusky; Dr. Unverzagt, Dr. Beaudette, PA Otero and Dr. Anderson. **RECUSED:** Dr. Spence, Dr. Carson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2019-C-206 RECOMMENDATION was made by Dr. Spence to offer physician a stipulated license requiring successful completion of the terms and conditions of the other state medical board order and assessing \$150 in costs for failure to report the adverse action or issuance of a notice of contemplated action based on, but not limited to, adverse licensure action in another state and failure to report. **YES:** Dr. Jenkusky; Dr. Unverzagt, Dr. Beaudette, PA Otero and Dr. Anderson. **RECUSED:** Dr. Spence, Dr. Carson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Complaint Committee D

RECOMMENDATION was made by PA Otero to **CLOSE** Case #2018-D-032;2018-D-163; 2018-D-169; 2018-D-191; 2018-D-226; 2019-D-103; and 2019-D-112. **YES:** Dr. Jenkusky; Dr. Beaudette, Dr. Spence, Dr. Carson and Dr. Anderson. **RECUSED:** Dr. Unverzagt and PA Otero. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2019-D-187 RECOMMENDATION was made by PA Otero to **CLOSE** this case with an advisory letter pertaining to timely release of medical records and include a copy of the Board's Regulation on same. **YES:** Dr. Jenkusky; Dr. Beaudette, Dr. Spence, Dr. Carson and Dr. Anderson. **RECUSED:** Dr. Unverzagt and PA Otero. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2019-D-207 RECOMMENDATION was made by PA Otero to **CLOSE** this case with an advisory letter regarding disclosing complete information on a renewal application and assessing \$600 in costs. **YES:** Dr. Jenkusky; Dr. Beaudette, Dr. Spence, Dr. Carson and Dr. Anderson. **RECUSED:** Dr. Unverzagt and PA Otero. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2018-D-209 RECOMMENDATION was made by PA Otero offering physician a reprimand and payment of a fine of \$1,000, along with \$300 in costs for failure to report two different adverse actions by two different states. If physician does not accept, a notice of contemplated action will be issued based on, but not limited to, failure to report adverse actions, adverse actions taken by other state medical boards and conduct unbecoming. **YES:** Dr. Jenkusky; Dr. Beaudette, Dr. Spence, Dr. Carson and Dr.

Anderson. **RECUSED:** Dr. Unverzagt and PA Otero. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2018-D-213 RECOMMENDATION was made by PA Otero offering physician a stipulated license requiring professionalism coaching with Dr. Patrick Hudson and Payment of a \$2000 fine, along with issuance of a reprimand. If he does not accept, a notice of contemplated action will be issued on, base on, but not limited to, conduct unbecoming and interaction with patients that could adversely affect patient care. **YES:** Dr. Jenkusky; Dr. Beaudette, Dr. Spence, Dr. Carson and Dr. Anderson. **RECUSED:** Dr. Unverzagt and PA Otero. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2019-D-004 RECOMMENDATION was made by PA Otero offering physician a stipulated license requiring successful completion of the professionalism course at CPEP, along with issuance of a fine of \$1000, and issuance of a reprimand. If he does not accept, a notice of contemplated action will be issued based on, but not limited to, conduct unbecoming and interaction with other practitioners that could adversely affect patient care. **YES:** Dr. Jenkusky; Dr. Beaudette, Dr. Spence, Dr. Carson and Dr. Anderson. **RECUSED:** Dr. Unverzagt and PA Otero. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2019-D-135 RECOMMENDATION was made by PA Otero offering physician the options of either voluntarily surrendering his license in New Mexico; or issuance of a reprimand and stipulation of licensure requiring payment of fine of \$1000, along with requirement that if physician applies for reinstatement the Board shall review and approve courses prior to any reinstatement. If physician does not accept either option, a notice of contemplated action will be issued based on, but not limited to, adverse licensure action in another state and conduct unbecoming. **YES:** Dr. Jenkusky; Dr. Beaudette, Dr. Spence, Dr. Carson and Dr. Anderson. **RECUSED:** Dr. Unverzagt and PA Otero. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2019-D-190 RECOMMENDATION was made by PA Otero offering physician the chance to withdraw his application for licensure while under investigation or a notice of contemplated action will be issued to deny licensure based on, but not limited to, misrepresentation on an application, conduct likely to deceive and/or harm the public and fee splitting. **YES:** Dr. Jenkusky; Dr. Beaudette, Dr. Spence, Dr. Carson and Dr. Anderson. **RECUSED:** Dr. Unverzagt and PA Otero. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Case #2019-D-200 RECOMMENDATION was made by PA Otero offering an interim order to physician requiring him to place his license on inactive status pending resolution of the criminal case. If physician refuses to accept, a notice of contemplated action will be issued based on, but not limited to, adverse licensure action in another state, failure to report and conduct unbecoming. **YES:** Dr. Jenkusky; Dr. Beaudette, Dr. Spence, Dr. Carson and Dr. Anderson. **RECUSED:** Dr. Unverzagt and PA Otero. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

5. ACTIONS RELATED TO EXECUTIVE SESSION

None

6. LICENSING ISSUES, NEW APPLICANTS / REINSTATEMENTS

Padmaneel Kanase, MD – Motion for Reimbursement of Costs.

MOTION was made by Dr. Jenkusky to accept and approve the motion for costs as presented.

Seconded by PA Otero. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, Dr. Carson, PA Otero and Dr. Anderson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Josip Gazic, MD - Motion for Entry of Default Order.

MOTION was made by Dr. Jenkusky to accept the Motion For Entry of Default order as presented. **Seconded** by Dr. Unverzagt. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, Dr. Carson, PA Otero and Dr. Anderson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Josip Gazic, MD – Decision and Order on Motion for Entry of Default Order.

MOTION was made by Dr. Jenkusky to revoke Dr. Gazic's license. **Seconded** by Dr. Unverzagt. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, Dr. Carson, PA Otero and Dr. Anderson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Vijay Agarwal, MD - Motion for Entry of Default Order.

MOTION was made by Dr. Jenkusky to accept the Motion For Entry of Default order as presented. **Seconded** by Dr. Unverzagt. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, Dr. Carson, PA Otero and Dr. Anderson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Vijay Agarwal, MD - Motion for Entry of Default Order.

MOTION was made by Dr. Jenkusky to revoke Dr. Agarwal's license. **Seconded** by PA Otero. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, Dr. Carson, PA Otero and Dr. Anderson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Michael Clements, MD – Motion for Adoption of Proposed Agreed Order.

MOTION was made by Dr. Jenkusky to adopt the Proposed Agreed Order as presented. **Seconded** by Dr. Unverzagt. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, Dr. Carson, PA Otero and Dr. Anderson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Julie DiCianno, MD – Motion for Adoption of Proposed Agreed Order.

MOTION was made by Dr. Jenkusky to adopt the Proposed Agreed Order as presented. **Seconded** by Dr. Carson. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, Dr. Carson, PA Otero and Dr. Anderson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Anjum Sharma, MD – Motion for Adoption of Proposed Agreed Order.

MOTION was made by Dr. Jenkusky to adopt the Proposed Agreed Order as presented. **Seconded** by Dr. Carson. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, Dr. Carson, PA Otero and Dr. Anderson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Patrick Dunphy, PA – Motion for Adoption of Proposed Agreed Order.

Tabled

Kashif Abad, MD – Consider Request for Exception to the 7 – Year Rule.

MOTION was made by Dr. Jenkusky to grant Dr. Abad a full and unrestricted license. **Seconded** by PA Otero. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, Dr. Carson, PA Otero and Dr. Anderson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

7. Board Attorney Report

Margaret McLean, J.D. – For review.

Yvonne Chicoine, Esq. – Report.

Ms. Chicoine reported to the Board her Summary of Board actions, cases opened and closed and Cases Pending. Dr. Spence suggested that at the next full Board meeting he would like to see the statistics from the past 5 years.

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 PA Otero. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, Dr. Carson, PA Otero and Dr. Anderson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

8. Board Monitored Compliance Report [Non MTP]

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

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

Andrea Newman, William Brady, MD and Mary Lynn Griffin of the NMHPWP presented the status of all mandatory HPWP participants and answered questions from the Board.

10. Informal Interviews

Marc O'Cleireachain, MD (Telephonic); Orlando Ortiz; MD (Telephonic); Stephen Coleman, MD; Charles Bennett, MD; Marques Pena, MD; Christopher Percy, MD; Benjamin Stake, MD; Joseph Strong, Sleep Tech; Martin Taylor, PA; Paul Wheeler, MD; David Williams, MD and Ryan Lubert, 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.

11. REPORTS

Financial / HR Manager

Ms. Mascarenas reported to the Board the following;

FY19 Financial Audit

The FY19 Financial Audit was conducted in October 2019.

The auditor provided the board a letter dated October 29, 2019 in your packet titled Communication with Governance at the Conclusion of the Audit – for your information.

The exit conference was held on October 31, 2019 attended by Ms. Frank and Ms. Mascarenas and via telecom by Dr. Jenkusky.

At the next regular board meeting the Audit Firm, Robert Rivera, who conducted the Financial Audit will present the FY19 audit to the board and the board will need to vote to approve the audit at that time.

FY20 Budget/Revenue Status

Report the FY20 Budget/Revenue Status ending September 30, 2019.

The Budget and Revenue Status ending September 30, 2019 are as follows:

From July 1, 2019 through September 30, 2019 expenditures total \$440,438 (or 20.4%) of budgeted expenditures (Opbud \$2,159,300);

From July 1, 2019 through September 30, 2019 the agency collected revenues in the amount of \$362,811 (or 16.8%) of budgeted revenues of \$2,159,300.

The Fund Balance on June 30, 2019 is \$1,342,981. The cash balance as of November 13, 2019 is \$1,127,233.

Ms. Mascarenas provided the Board for their reference the FY20 Statistics Summary that reflects the application/renewal and other fees that makes up the total revenues collected in FY20 beginning on 7/1/19 through 9/30/19 in the amount of \$362,811.

FY21 Appropriation Request

The FY21 Appropriation request was submitted to DFA and LFC on September 3, 2019. In your packet you will find a letter that was submitted with the appropriation request which includes an increase in the budget for two (2) new positions (an Attorney and an Investigator) and an increase in contractual services to fund a Paralegal to assist the Chief Legal Counsel with prosecutions. The Overall appropriation request is \$2,510.0 (\$2,110.0 Revenues and \$400.0 Fund Balance) which is 16.5% increase from the current year's operating budget.

The Appropriation Request was presented at the LFC hearing on October 30, 2019. The board will need to vote to approve the FY21 Appropriation Request at this time.

MOTION was made by Dr. Jenkusky to approve the FY21 Appropriation Request. **SECONDED** by PA Otero. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, Dr. Carson, PA Otero and Dr. Anderson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Executive Director Report

2021 Merge DO-MD Boards.

Ms. Frank reported that the DO Association is interested in merging with NMMB. Ms. Frank provided the DO Association with Senate Bill 463, which was introduced in 2017, to review.

Electronic Prescribing of Controlled Substances.

Ms. Frank reported to the Board that the support for Patients and Communities Act, which Congress passed and President Trump signed into law in October, mandates the use of electronic prescribing of controlled substances (EPCS) for all controlled substances under Medicare Part D by January 1, 2021. Ms. Frank wanted the Board to be aware that the Pharmacy Board in the future will be changing rules and that this may effect the NMMB.

RLD Issues.

Ms. Frank reported to the Board the issues NMMB is having with the MLO database and the on-line renewal system that Regulation and Licensing Department manages.

Possibly Cancel December Interim Board Meeting.

Tabled

Propose Legislation to Move HPWP in House.

Ms. Frank reported to the Board that in the future there may need to be proposed legislation to move HPWP in house.

Naprapathic Task Force.

The Board reviewed Dr. Renee Nix's CV and recommendation from Dr. Nuzzo to join the Naprapathic task force.

MOTION was made by Dr. Jenkusky that Dr. Nix be appointed to the Naprapathic Task Force. **SECONDED** by PA Otero. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Carson, PA Otero and Dr. Anderson. **ABSTAIN:** Dr. Spence. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Licensing Manager

Fines for Incorrect Answers on Renewal PPQ's.

Ms. Griego reported that it is a burden to staff when our licensees answer question incorrectly and would like the Board to consider imposing fines. Dr. La Farge suggested that staff should review the questions and bring back to the Board in February to see if this may alleviate some of the confusion as to why our licensees are answering the PPQ's incorrectly.

International Foreign Graduates and the California Board Approved Medical Schools List.

Ms. Griego reported to the Board that the California Medical Board is changing their rules and will require that all foreign graduates must complete 3 years of PGT and they will be using World directory of Medical Schools to verify medical schools. They will no longer be updating their own list of approved and disapproved medical schools, which the NMMB uses to verify approved and disapproved foreign medical schools.

Fee for Incorrect Contact Information.

Ms. Griego reported how time consuming it is when our licensees do not update their current contact information and suggested imposing a fee for incorrect information.

MOTION was made by Dr. Jenkusky to impose a fee for licensees who do not provide current contact information in the amount of \$150. **SECONDED** by PA Otero. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, Dr. Carson, PA Otero and Dr. Anderson. **EXCUSED:** Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

CE Audit

Ms. Griego updated the Board on the status of the CME Audit in and the use of CE Broker, the Boards contracted company that is managing the audit this year. 250 licensees were audited and 155 have complied to date. The remaining MD's have until December 11, 2020 to comply.

Asylum Applicants

Ms. Griego reported to the Board that there was a total of 11 applicants who applied for expedited licensure to work in the southern part of New Mexico where physicians are in need because of the asylum seekers.

Board Chair

HPWP Issues and Status.

Dr. Jenkusky updated the Board that HPWP has a new interim Medical Director, William Brady, MD and he has also begun to manage program at this time.

Appoint Member to the Overdose Council.

Dr. Jenkusky informed the Board that he is wanting to step down in the near future as a member on the Overdose Council and suggested that other Board Members think about the possibility of being appointed in his place.

ADJOURN

Dr. Jenkusky adjourned the first day [August 8, 2019] of the August Regular Board Meeting at 4:30 p.m.

Friday, November 15, 2019

Dr. Jenkusky reconvened the Medical Board and called the meeting to order at 8:43 a.m. on Friday, November 15, 2019; 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 PA Otero. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, PA Otero and Dr. Anderson. **EXCUSED:** Dr. Carson, Ms. Anderson and Ms. Saavedra. **MOTION CARRIED**

12. Informal Interviews

John Dacanay; Avra Laarakker, MD; Austin Oetken, MD; Sterling Williams, MD; Rebecca Duchon, PA and Erika Garbrecht, MD (Telephonic).

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.

13. Compliance Requests / Actions

John Dacanay, MD – Request for Release of Stipulation.

MOTION was made by Dr. Jenkusky to deny Dr. Dacanay's request for release from stipulation but add additional language on stipulation stating he can prescribe only for post-operative pain up to 4 days. **SECONDED** by Dr. Anderson. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, PA Otero and Dr. Anderson. **EXCUSED:** Dr. Carson, Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Avra Larrakker, MD – Request for Reactivation of License with Stipulation to HPWP.

MOTION was made by Dr. Jenkusky to reactivate Dr. Larrakker's license in January pending Dr. Brady's evaluation with HPWP. **SECONDED** by Dr. Anderson. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, PA Otero and Dr. Anderson. **EXCUSED:** Dr. Carson, Ms. Anderson and Ms. Saavedra. **MOTION CARRIED.**

Sterling Williams, MD – Consider Request for Release of Stipulation.

MOTION was made by Dr. Jenkusky to release Dr. Williams from stipulation and issue an unrestricted license. **SECONDED** by Dr. Anderson. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, PA Otero and Dr. Anderson. **EXCUSED:** Dr. Carson, Ms. Anderson and Ms. Saavedra. **MOTION CARRIED**

Rebecca Duchon, MD – Consider Request for Release of Stipulation.

MOTION was made by Dr. Jenkusky to release Ms. Duchon from stipulation and issue an unrestricted license. **SECONDED** by Dr. Anderson. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, PA Otero and Dr. Anderson. **EXCUSED:** Dr. Carson, Ms. Anderson and Ms. Saavedra. **MOTION CARRIED**

14. Actions Related to Executive Session

15. New Business

Proposed Rule Change to Part 14 to Incorporate SB221 Opioid Antagonist Co Prescribing.

Ms. Frank asked the Board to review proposed amendments to Part 14 to incorporate language directly from the SB221, the Board reviewed and struck Part A. of 16.10.14 all other changes were accepted.

MOTION was made by Dr. Jenkusky to approve the proposed rule change to Part 14 to Incorporate SB221 Opioid Antagonist Co Prescribing with amendments as discussed for rule hearing on February 21, 2020. **SECONDED** by PA Otero. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, PA Otero and Dr. Anderson. **EXCUSED:** Dr. Carson, Ms. Anderson and Ms. Saavedra. **MOTION CARRIED**

New Mexico Association for Home Hospice Care Request for Exemption from the Pain Relief Act.

Ms. Frank informed the Board of the issues that Nursing Homes and Hospice Care Facilities are having with SB221 and that they are asking for an exemption from the Pain Relief Act amendment. Ms. Frank asked the Board for direction and if we should make a rule change from SB221 to exempt Nursing Home and Hospice Care. The NMAHHC has the Boards support to amending SB221 if they bring it to legislature.

16. Old Business

Approve Proposed 2020 Board Meeting Dates.

The Board reviewed and approved the dates for the full Board Meetings and Interim Meetings, the dates are as follows; January 9, 2020 (Interim; February 20-21, 2020 (Full Meeting); March 26, 2020 (Interim); May 14-15, 2020 (Full Meeting); September 24, 2020 (Interim); November 19-20, 2020 (Full Meeting) and December 10, 2020 (Interim).

Proposed Naturopathic Doctor Licensing Rules.

The Board reviewed and amended the proposed Naturopathic Doctor Licensing Rules for rule hearing in February 2020.

MOTION was made by Dr. Jenkusky to accept the proposed Naturopathic Licensing Rules with amendments for Rule Hearing on February 21, 2020. **SECONDED** by PA Otero. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, PA Otero and Dr. Anderson. **EXCUSED:** Dr. Carson, Ms. Anderson and Ms. Saavedra. **MOTION CARRIED**

Proposed Amendments to 16.10.9 “Fees”.

The Board reviewed the proposed amendments to 16.10.9 “Fees” for rule hearing in February 2020.

MOTION was made by Dr. Jenkusky to approve the proposed amendments to 16.10.9 “Fees” for rule hearing on February 21, 2020. **SECONDED** by PA Otero. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, Dr. Spence, PA Otero and Dr. Anderson. **EXCUSED:** Dr. Carson, Ms. Anderson and Ms. Saavedra. **MOTION CARRIED**

Proposed Amendments to 16.10.2 “Physicians: Licensure Requirements” to add Traveling Sports Team Physician Licensure.

The Board reviewed the proposed amendments to 16.10.2 “Physicians: Licensure Requirements” to add traveling Sports Team Physician Requirements for rule hearing in February 2020.

MOTION was made by Dr. Jenkusky to approve the proposed amendments to 16.10.2 “Physicians: Licensure Requirements” to add traveling Sports Team Physician licensure for rule hearing on February

21, 2020. **SECONDED** by PA Otero. **YES:** Dr. Jenkusky, Dr. Unverzagt, Dr. Beaudette, PA Otero and Dr. Anderson. **EXCUSED:** Dr. Carson, Ms. Anderson and Ms. Saavedra. **ABSENT:** Dr. Spence.
MOTION CARRIED

NMHA – Letter to New Mexico Medical Board Regarding Peer Review.

Dr. Jenkusky reported to the Board per reviewed the New Mexico Peer Review Statute any out-of-state entities who would like to do peer review would need to be licensed. Ms. Frank will review the statute and will bring it to the Board at the December Interim Board Meeting.

17. ADJOURN

There being no further business before the Board, Dr. Jenkusky adjourned the meeting at 11:58 P.M.

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

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

APPROVED BY: _____ DATE: _____
Peter Beaudette, M.D, Vice Chair