

NEW MEXICO MEDICAL BOARD
Interim Board Meeting
State Bar of New Mexico
5121 Masthead NE, Albuquerque, NM 87109
September 26, 2019
DRAFT MINUTES

Members Present: Steve Jenkusky, MD, Chair
Peter Beaudette, MD, Vice Chair
Charles D. Otero, PA
James Spence, MD
Mark Unverzagt, MD
Buffie Saavedra, Public Member

Teleconference: Eric Anderson, MD
Karen Carson, MD

Absent: Jennifer Anderson, Esq., Public Member

Other Staff Present: Sondra Frank, Esq., Executive Director
Debbie Dieterich, Investigations Manager
Amanda Quintana, Compliance Manager
Samantha Breen, Compliance Coordinator

1. CALL TO ORDER / ROLL CALL

Dr. Jenkusky called the Interim Board Meeting of the New Mexico Medical Board to order at 4:12 p.m. and a quorum was present.

2. APPROVAL OF AGENDA

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

3. APPROVAL OF MINUTES

MOTION was made by Dr. Jenkusky to accept and approve the minutes of the August 8-9, 2019 Board Meeting as presented. **SECONDED** by Dr. Beaudette. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Unverzagt, Ms. Saavedra, PA Otero, Dr. Anderson and Dr. Carson. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

4. Chair Report

Dr. Jenkusky reported that he, Ms. Frank, Ms. Dieterich and Ms. Quintana had a meeting with William Brady, MD, who is a NMHPWP Board Member to discuss the issues that the New Mexico Medical Board is having with NMHPWP. Dr. Jenkusky reported that Dr. Brady will be doing assessments for the New Mexico Medical Board in the interim.

5. Executive Director

Ms. Frank reported that on Friday, September 27, 2019 the Naturopathic Advisory Committee is going to meet with staff to continue working on the rules for licensure of Naturopathic Doctors. Ms. Quintana

is preparing the Visiting Sports Physician rules, Ms. Frank also reported that the PA prescribing rule is completed.

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

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. Beaudette, Dr. Spence, Dr. Unverzagt, Ms. Saavedra, PA Otero, Dr. Anderson 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 #2019-A-189 RECOMMENDATION was made by Dr. Beaudette to offer physician applicant a stipulated license requiring payment of \$1000 fine along with the issuance of a reprimand, and payment of \$1500 in costs for the PPQs answered incorrectly on all Board applications. If physician applicant does not accept, he may 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, dishonesty, misrepresentations on multiple applications and failure to report adverse action as required. **YES:** Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra, PA Otero, Dr. Anderson and Dr. Carson. **RECUSED:** Dr. Beaudette. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

Case #2019-A-196 RECOMMENDATION was made by Dr. Beaudette to issue an unrestricted medical license with payment of \$450 in administrative costs for incorrect PPQ answers on application and an advisory letter reminding physician about full disclosure in an application for licensure. **YES:** Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra, PA Otero, Dr. Anderson and Dr. Carson. **RECUSED:** Dr. Beaudette. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

Complaint Committee B

Case #2019-B-145 RECOMMENDATION was made by Dr. Jenkusky to issue a Notice of Contemplated Action based on, but not limited to, injudicious prescribing and repeated similar negligent acts contingent upon a finding following expert review, but also giving prosecutor flexibility to combine this case with the pending prosecution case against physician. **YES:** Dr. Beaudette, Dr. Spence, Dr. Unverzagt, Ms. Saavedra, PA Otero and Dr. Carson. **RECUSED:** Dr. Jenkusky and Dr. Anderson. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

Case #2019-B-197 RECOMMENDATION was made by Dr. Jenkusky to offer physician applicant a stipulated license requiring mandatory participation in NMHPWP. If physician applicant does not accept, he may withdraw his application for licensure while under investigation or a notice of contemplated action will be issued based on, but not limited to, habitual and excessive use of alcohol or substances and adverse licensure action in another state. **YES:** Dr. Beaudette, Dr. Spence, Dr. Unverzagt, Ms. Saavedra, PA Otero and Dr. Carson. **RECUSED:** Dr. Jenkusky and Dr. Anderson. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

Case #2019-B-219 RECOMMENDATION was made by Dr. Jenkusky to offer physician a stipulation of licensure that allows for increased monitoring of physician by Board in order to ensure compliance. Specifically, physician shall return to and comply with the initial NMHPWP contract requirements that have been lifted or decreased by NMHPWP and submit all required documentation to NMHPWP and

the Board. In addition, physician shall comply with any biological testing as mandated by the Board. Physician shall also comply with all recommendation made by Bradford; shall be restricted from prescribing amphetamines; and shall pay a fine of \$1000. If physician does not accept, a Notice of Contemplated Action will be issued based on, but not limited to, violation of a board stipulation, dishonesty and conduct unbecoming. **YES:** Dr. Beaudette, Dr. Spence, Dr. Unverzagt, Ms. Saavedra, PA Otero and Dr. Carson. **RECUSED:** Dr. Jenkusky and Dr. Anderson. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

Complaint Committee C

Case #2019-C-131 RECOMMENDATION was made by Dr. Spence to issue physician applicant an unrestricted license. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Unverzagt, Ms. Saavedra, PA Otero and Dr. Anderson. **RECUSED:** Dr. Spence and Dr. Carson. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

Case #2019-C-220

Tabled.

Complaint Committee D

Case #2019-D-130 RECOMMENDATION was made by PA Otero to offer physician applicant a stipulated license requiring that he successfully complete the terms and conditions set forth by the Vermont Medical Board and provide his written narrative of each CME course to the NM Medical Board, along with assessing \$450 administrative costs and issuance of an advisory letter on the requirement for answering PPQs on an application correctly. **YES:** Dr. Beaudette, Dr. Spence, Ms. Saavedra, Dr. Anderson and Dr. Carson. **RECUSED:** Dr. Unverzagt and PA Otero. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

Complaint Committee E

Case #2019-E-194 RECOMMENDATION was made by Ms. Saavedra to issue a full and unrestricted license to physician and assess a fee of \$150 in administrative costs with issuance of an advisory letter reminding physician about full disclosure of information on an application for licensure. If he does not accept, physician applicant can withdraw his application while under investigation or a Notice of Contemplated Action will be issued to deny licensure based on, but not limited to, habitual/excessive use of alcohol, dishonesty and conduct unbecoming. **YES:** Dr. Beaudette, Dr. Spence, Dr. Unverzagt, PA Otero, Dr. Anderson and Dr. Carson. **RECUSED:** MS. Saavedra. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

7. Executive Committee Report

None

8. Informal Compliance Interviews

Austin Oetken, MD

9. LICENSING ISSUES, NEW APPLICANTS / REINSTATEMENTS

Charles O'Hearn, MD – Motion for Reimbursement of Costs

MOTION was made by Dr. Jenkusky to accept Prosecution's Motion for Reimbursement of Costs as presented. **SECONDED** by Ms. Saavedra. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Ms. Saavedra, PA Otero, Dr. Anderson and Dr. Carson. **ABSTAIN:** Dr. Unverzagt. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

Sujan Thyagaraj, MD – Motion for Reimbursement of Costs

MOTION was made by Dr. Jenkusky to accept Prosecution's Motion for Reimbursement of Costs as presented. **SECONDED** by Ms. Saavedra. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr.

Unverzagt, Ms. Saavedra, PA Otero, Dr. Anderson and Dr. Carson. **ABSENT:** Ms. Anderson. **MOTION CARRIED.**

Julie DiCianno, MD Case No. 2019-013 – Joint Motion to Approve Proposed Agreed Order.
Tabled

Patrick Dunphy, MD Case No. 2019-010 – Joint Motion to Approve Proposed Agreed Order.
Tabled

Michael Clements, MD – Joint Motion to Approve Proposed Agreed Order.
Tabled

10. Old Business

11. Adjourn

6:04 p.m.

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

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

APPROVED BY: _____ DATE: _____
Peter Beaudette, MD, Vice Chair