

NEW MEXICO MEDICAL BOARD
Regular Board Meeting
February 8-9, 2018
DRAFT MINUTES

Members Present: Steve Jenkusky, M.D., Chair
Albert Bourbon, P.A., Vice Chair
Jennifer Anderson, Esquire, Public Member, Secretary Treasurer
Steve Komadina, MD – Present February 8, 2018
James Spence, M.D.
Peter Beaudette, M.D. – Present February 8, 2018
Karen Carson, M.D.
Philip Styka, M.D.
Sebastian Dunlap, Esquire, Public Member

Excused: Steve Komadina, MD – Excused February 9, 2018
Peter Beaudette, MD – Excused February 9, 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, Mr. Dunlap, Dr. Beaudette, Dr. Komadina, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **MOTION CARRIED.**

3. APPROVAL OF MINUTES

MOTION was made by Dr. Jenkusky to accept and approve the minutes of the Interim Board Meeting December 14, 2017 as presented. **SECONDED** by Mr. Bourbon. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Komadina, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **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 Dr. Carson. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Komadina, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **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 #2016-A-104; 2016-A-181; 2017-A-037; 2017-A-087; 2017-A-097; 2017-A-139; 2017-A-159; 2017-A-160 and 2017-A-164. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Komadina, Dr. Spence, Ms. Anderson, Dr. Styka and Mr. Bourbon. **RECUSED:** Dr. Carson and Dr. Beaudette.

Case #2017-A-224 RECOMMENDATION was made by Dr. Carson to offer physician applicant a stipulated license of reprimand and payment of \$1000 fine. If she does not accept, physician applicant may withdraw her application 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; discipline imposed on a licensee by another state medical board; and dishonesty. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Komadina, Dr. Spence, Ms. Anderson, Dr. Styka and Mr. Bourbon. **RECUSED:** Dr. Carson and Dr. Beaudette.

Case #2017-A-294 – Case returned to investigations.

Complaint Committee B

RECOMMENDATION was made by Dr. Komadina to **CLOSE** Case #2016-B-149; 2016-B-304; 2017-B-031; 2017-B-066; 2017-B-070; 2017-B-083; 2017-B-132; 2017-B-136; 2017-B-154; 2017-B-163; 2017-B-165 and 2017-B-237. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Spence, Dr. Carson, Ms. Anderson and Mr. Bourbon. **RECUSED:** Dr. Styka and Dr. Komadina.

Case #2016-B-303 RECOMMENDATION was made by Dr. Komadina to **CLOSE** this case with an advisory letter reminding physician about the proper use of chaperones. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Spence, Dr. Carson, Ms. Anderson and Mr. Bourbon. **RECUSED:** Dr. Styka and Dr. Komadina.

Case #2017-B-061 RECOMMENDATION was made by Dr. Komadina to **CLOSE** this case with an advisory letter regarding reviewing a patient's chart for accuracy prior to signing it. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Spence, Dr. Carson, Ms. Anderson and Mr. Bourbon. **RECUSED:** Dr. Styka and Dr. Komadina.

Case #2017-B-192 RECOMMENDATION was made by Dr. Komadina that physician applicant (1) obtain a clinical competency skills assessment from CPEP; or (2) withdraw his application while under investigation, or (3) a notice of contemplated action will be issued to deny licensure, based on, but not limited to, incompetency to practice and misrepresentation on an application for licensure. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Spence, Dr. Carson, Ms. Anderson and Mr. Bourbon. **RECUSED:** Dr. Styka and Dr. Komadina.

Case #2017-B-256 RECOMMENDATION was made by Dr. Komadina that physician be allowed to (1) voluntarily surrender his NM medical license, or (2) offer him a stipulated license requiring mandatory participation in the NM monitored treatment program. If he does not accept either option within 20 days from offer, a notice of contemplated action will be issued based on, but not limited to, manifest incapacity to practice as a licensee, and habitual or excessive use of substances. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Spence, Dr. Carson, Ms. Anderson and Mr. Bourbon. **RECUSED:** Dr. Styka and Dr. Komadina.

Case #2017-B-293 RECOMMENDATION was made by Dr. Komadina to issue a summary suspension based on imminent danger to the public, along with a notice of contemplated action based on, but not limited to, gross negligence, injudicious prescribing, failure to maintain accurate and complete medical records, and conduct likely to harm. **YES:** Mr. Dunlap, Dr. Beaudette, Dr. Spence, Dr. Carson, Ms. Anderson and Mr. Bourbon. **RECUSED:** Dr. Styka, Dr. Komadina and Dr. Jenkusky.

Complaint Committee C

RECOMMENDATION was made by Dr. Spence to **CLOSE** Case #2016-C-295; 2017-C-011; 2017-C-052; 2017-C-067; 2017-C-133; 2017-C-146; 2017-C-151; 2017-C-166; 2017-C-194 and 2017-C-204. **YES:** Dr. Beaudette, Dr. Komadina, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **RECUSED:** Dr. Jenkusky, Dr. Spence and Mr. Dunlap.

Case #2016-C-135 RECOMMENDATION was made by Dr. Spence to **CLOSE** this case with an advisory letter with regard to the Board's regulation on reporting requirements. **YES:** Dr. Beaudette, Dr. Komadina, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **RECUSED:** Dr. Jenkusky, Dr. Spence and Mr. Dunlap.

Case #2016-C-167 RECOMMENDATION was made by Dr. Spence to **CLOSE** this case with an advisory letter on the Board's regulation requiring the reporting of malpractice settlements. **YES:** Dr. Beaudette, Dr. Komadina, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **RECUSED:** Dr. Jenkusky, Dr. Spence and Mr. Dunlap.

Case #2016-C-313 RECOMMENDATION was made by Dr. Spence to **CLOSE** this case with an advisory letter that addresses the requirement for maintenance of complete, accurate and timely records, the requirement for keeping a current address, and requirement for timely reporting on adverse actions to the Board. **YES:** Dr. Beaudette, Dr. Komadina, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **RECUSED:** Dr. Jenkusky, Dr. Spence and Mr. Dunlap.

Case #2017-C-071 RECOMMENDATION was made by Dr. Spence to **CLOSE** this case with an advisory letter regarding the Board's Regulation on notification to patients when closing a practice. **YES:** Dr. Beaudette, Dr. Komadina, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **RECUSED:** Dr. Jenkusky, Dr. Spence and Mr. Dunlap.

Case #2017-C-095 RECOMMENDATION was made by Dr. Spence to **CLOSE** this case with an advisory letter about patient communications. **YES:** Dr. Beaudette, Dr. Komadina, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **RECUSED:** Dr. Jenkusky, Dr. Spence and Mr. Dunlap.

Case #2017-C-227 RECOMMENDATION was made by Dr. Jenkusky to offer physician the chance to voluntarily surrender his license within 20 days of the request or a notice of contemplated action will be issued based on, but not limited to, violation of a board stipulation, violation of a drug law, and habitual/excessive use of a substance. **YES:** Dr. Beaudette, Dr. Komadina, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **RECUSED:** Dr. Jenkusky, Dr. Spence and Mr. Dunlap.

Case #2017-C-230 RECOMMENDATION was made by Dr. Jenkusky to summarily suspend the medical license of physician based on his imminent danger to the public, along with the issuance of a notice of contemplated action, based on, but not limited to, failure to comply with the Board's Regulation on the requirements of physicians being prescribed opiates for chronic pain; failure to cooperate with a board request; and conduct unbecoming. **YES:** Dr. Beaudette, Dr. Komadina, Ms. Anderson, Dr. Styka and Mr. Bourbon. **RECUSED:** Dr. Jenkusky, Dr. Spence, Mr. Dunlap and Dr. Carson.

Case #2017-C-244 RECOMMENDATION was made by Dr. Jenkusky to (1) offer Applicant the issuance of a stipulated license with a reprimand and \$500 fine, with stipulation to be removed after payment of the fine; or (2) withdrawal of her license application while under investigation; or (3) issuance of a notice of contemplated action to deny licensure, based on, but not limited to, misrepresentation on an application for licensure, failure to cooperate with the Board; and dishonesty. **YES:** Dr. Beaudette, Dr. Komadina, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **RECUSED:** Dr. Jenkusky, Dr. Spence and Mr. Dunlap.

Case #2017-C-252 RECOMMENDATION was made by Dr. Jenkusky to offer Physician an Interim Order requiring her to obtain a clinical skills competency evaluation by CPEP within 90 days. If

physician does not accept, the case will return to the Board at the Interim meeting for issuance of licensure action. **YES:** Dr. Beaudette, Dr. Komadina, Dr. Styka and Mr. Bourbon. **NO:** Dr. Carson and Ms. Anderson. **RECUSED:** Dr. Jenkusky, Dr. Spence and Mr. Dunlap.

Case #2017-C-258 RECOMMENDATION was made by Dr. Jenkusky to offer physician the chance to voluntarily surrender his medical license in NM within 20 days of request or a notice of contemplated action will be issued based on, but not limited to, failure to report an adverse licensure action; misrepresentation on a renewal application; and discipline imposed on a licensee by another state medical board. **YES:** Dr. Beaudette, Dr. Komadina, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **RECUSED:** Dr. Jenkusky, Dr. Spence and Mr. Dunlap.

Case #2017-C-295 – Return to investigations.

Complaint Committee D

RECOMMENDATION was made by Ms. Anderson to **CLOSE** Case #2017-D-014; 2017-D-086; 2017-D-104; 2017-D-113; 2017-D-122; 2017-D-142; 2017-D-152 and 2015-D-156. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Komadina, Dr. Spence, Dr. Carson and Dr. Styka. **RECUSED:** Mr. Bourbon and Ms. Anderson.

Case #2016-D-043 RECOMMENDATION was made by Ms. Anderson to **CLOSE** the case with an advisory letter cautioning physician about the concurrent prescribing of opioids and benzodiazepines. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Komadina, Dr. Spence, Dr. Carson and Dr. Styka. **RECUSED:** Mr. Bourbon and Ms. Anderson.

Case #2017-D-048 RECOMMENDATION was made by Ms. Anderson to issue a summary suspension based on physician's imminent danger to the public, along with a notice of contemplated action based on, but not limited to, non-compliance with Board's Regulation on PMP Use, failure to cooperate with the Board's investigation, and conduct likely to harm. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Komadina, Dr. Spence, Dr. Carson and Dr. Styka. **RECUSED:** Mr. Bourbon and Ms. Anderson

Case #2017-D-190 RECOMMENDATION was made by Ms. Anderson to issue a notice of contemplated action based on, but not limited to, obtaining a fee by fraud, use of a false statement in a document connected with the practice of medicine, conduct unbecoming, improper management of medical records and dishonesty. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Komadina, Dr. Spence, Dr. Carson and Dr. Styka. **RECUSED:** Mr. Bourbon and Ms. Anderson

Case #2017-D-223 RECOMMENDATION was made by Ms. Anderson to offer PA Applicant the chance to withdraw his application for licensure while under investigation within 20 days of the request to do so, or a notice of contemplated action will be issued to deny licensure based on, but not limited to: misrepresentation on an application for licensure; conduct unbecoming; failure to furnish the Board with information; making a false or deceptive statement in a document connected with the practice of medicine; and conduct likely to harm. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Komadina, Dr. Spence, Dr. Carson and Dr. Styka. **RECUSED:** Mr. Bourbon and Ms. Anderson

Case #2017-D-228 RECOMMENDATION was made by Ms. Anderson to offer physician the chance to voluntarily surrender his license within 20 days of the Board's request or a notice of contemplated action will be issued based on, but not limited to, incapacity to practice medicine. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Komadina, Dr. Spence, Dr. Carson and Dr. Styka. **RECUSED:** Mr. Bourbon and Ms. Anderson

5. LICENSING ISSUES, NEW APPLICANTS / REINSTATEMENTS

Amir Foghi, MD, MD2005-0713 – Case No. 2017-056 – Possible Dismissal.

MOTION was made by Dr. Jenkusky to **DISMISS** Case no. 2017-056. **SECONDED** by Ms. Anderson. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Komadina, Dr. Spence, Ms. Anderson, Dr. Styka and Mr. Bourbon. **NO:** Dr. Carson. **MOTION CARRIED.**

Thomas Prose, MD, 2003-0453 – Case No. 2017-026 – Decision and Order.

Dan Akenhead, Attorney for Dr. Prose and Yvonne Chicoine, NMMB Prosecuting Attorney were given ten minutes each for oral argument. The Board deferred their vote to the Friday, February 9, 2018 portion of the Board meeting.

Lynda Labranche, MD, RS2015-0571 – Case No. 2017-031 – Motion to Request Reopening of Hearing. **MOTION** was made by Ms. Anderson to issue an Order to Show Cause requiring that the respondent provide to the Board any new evidence that she would provide to the Hearing Officer if the Board were to approve the motion. Specifically the Board would like a list of new evidentiary items that she would present as well as a list of new witnesses who would testify along with the relevance to the matter. This information must be provided to the Board within 21 days of the issuance of this Order to Show Cause. Further, the Motion to Request Reopening of the Hearing is deferred in the event that respondent fails to respond to the Board's Motion to Show Cause. **SECONDED** by Mr. Bourbon. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Komadina, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **MOTION CARRIED.**

Philip Angwenyi, MD – Consider exception to 7 Year Rule based on number of attempts. **MOTION** was made by Dr. Jenkusky to approve Dr. Angwenyi's application for licensure and issue an unrestricted license to him. **SECONDED** by Dr. Carson. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Komadina, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **MOTION CARRIED.**

6. Board Attorney Report

Margaret McLean, J.D. – None

CLOSED SESSION: PIO/Compliance Report and New Mexico Monitored Treatment 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 Ms. Anderson. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Komadina, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **MOTION CARRIED.**

7. Board Monitored Compliance Report [Non MTP]

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

New Mexico Health Professional Wellness Program Report (Formerly MTP)

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

Informal Interviews

Molly Hutsinpillar, MD (telephonic); Yasin Choudry, MD; Chris Driskill, MD; Ryan Grange, PA; Kyle Greer, MD; Amit Gupta, MD; Charles Bennett, MD; Keith Levitt, MD; Kaaren Mahan, PA; Jane McMillan, MD; Clyde Miller, MD; Adrian Morretti, MD; Jose Garcia, MD; Wayne Kuang, MD and Joel Teicher, 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.

8. ACTIONS RELATED TO EXECUTIVE SESSION

None

9. REPORTS

Financial / HR Manager

FY17 Audit:

Ms. Mascarenas introduced Robert Rivera, CPA who was contracted by the Board to conduct the 2017 Annual Audit. He reported that there were no findings in any areas of the Audit.

MOTION was made by Dr. Jenkusky to accept the results of the Audit completed by Robert Rivera, CPA. **SECONDED** by Ms. Anderson. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **Absent:** Dr. Komadina (left meeting at 3:15)
MOTION CARRIED.

FY18 Budget/Revenue Status

The Budget and Revenue Status ending January 31, 2018 are as follows:

- Expenditures total \$1,016,788 (or 53.52%) of budgeted expenditures from July 1, 2017 thru January 31, 2018 (Opbud \$1,900,000);
- Revenues collected from July 1, 2017 through January 31, 2018 total \$480,459 (or 26.4%) of budgeted revenues in the amount of \$1,820,000. The agency also budgeted \$80,000 FB in FY18.
- The Fund Balance on June 30, 2017 is **\$772,654.**
- The Fund Balance in FY18 as of January 31, 2018 **\$236,325. (This figure consists of Fund Balance on June 30, 2017 plus revenues collected from 7/1/17 – 1/31/18 less expenditures for the same period).**
- The Cash Balance in FY18 as of January 31, 2018 is **(\$536,329). (This figure consists of Revenues collected from 7/1/17 – 1/31/18 \$480,459 less expenditures for the same period \$1,016,788 resulting in a negative Cash Balance of (\$536,329).**

*Essentially the agency operates with our existing fund balance from June 30 of the previous fiscal year until the agency collects sufficient revenues in the current fiscal year to offset expenditures. The bulk of the revenues are collected during licensing renewals between April-June with June being the month in which most revenues are collected in a fiscal year.

FY19 Appropriation Request

- The FY19 Appropriation Request House Appropriation Finance Committee (HAFC) hearing was held on January 9, 2018 which Sondra and Gayle attended. The (HAFC) approved the lower recommendation (LFC - \$1,912.1) and included a comment that when presented to the full-committee the higher recommendation (DFA - \$1,996.0) should be approved. The full-committee approved \$1,996.0 which is the amount of the agency FY19 Appropriation Request.
- HAFC Committee Substitute for HB2 includes \$1,996.0 operating budget and Additional BAR Authority language in Section 10 of HB2 in the amount of \$100.0

FY19 Appropriation Request	FY18 Operating Budget	FY19 HAFC Recommendation
200 \$1,287.0	200 \$1,195.0	200 \$1,287.0
300 \$ 334.0	300 \$ 338.0	300 \$ 293.4
400 \$ 375.0	400 \$ 367.0	400 \$ 356.2
Total: <u>\$1,996.0</u>	Total: <u>\$1,900.0</u>	Total: <u>\$1,996.0</u>

FY19 - \$1,9160.0 Other Revenues and \$80.0 FB, FY18 - \$1,820.0 Other Revenues & \$80.0 FB (\$100.0—Add BAR Auth)

Chair Report

Dr. Jenkusky led a discussion regarding the use of medical cannabis by NMMB MD and PA licensees during the Board's lunch hour.

He wanted to bring the issue to the Board as they may need to provide guidance to facilities and to the physicians they license with something like a policy or opinion of the Board. Dr. Jenkusky stated that Dr. Dan Collins from the NM Health Professional Wellness Program (formerly MTP) recommends that if a client wishes to continue to work in a safety sensitive position such as medicine the client should pursue alternative treatment options for their condition other than medical cannabis. FSMB also states *"State medical and osteopathic boards advise their licensees to abstain from the use of marijuana for medical or recreational purposes while actively engaged in the practice of medicine. Practicing medicine under the influence of marijuana may constitute unprofessional conduct or incompetence."*

Several people from the public joined the meeting to express their support for practitioners being able to use medical cannabis.

Executive Director

Legislative Update:

Ms. Frank explained that we have had a light session. Currently the only bill that affects the Board directly is the Health Professional Loan Repayment Bill SB10. This bill collects \$100.00 from every licensing renewal fee.

Chiro Formulary Change Request:

Ms. Frank presented the letter she wrote to the NM Chiropractic Examiners. She stated that it is very detailed mostly because she wanted to memorialize the history between the two Boards for future administrations and Board staff.

Licensing Manager

Ms. Orender reported on other state requirements for MD graduates from foreign medical schools. Thirty-five states that responded to her do not require evaluation of foreign medical schools, instead they require verification of ECFMG Certification. NM already requires ECFMG certification for all International Medical Graduates (IMG's) unless they qualify for licensure by endorsement and have graduated from an approved school. Ms. Orender also stated that some states refer to the Foundation for Advancement of International Medical Education and Research (FAIMER) which refers to the World Directory of Medical Schools. She also reported that the California Board list of approved medical schools will be discontinued after January 1, 2020 at which point California will refer to and accept the schools from the World Directory of Medical Schools along with three years of post-graduate training for licensure.

Ms. Frank announced to the Board that Dr. La Farge is going to be presented with the John H. Clark, MD Leadership Award at the Federation of State Medical Board's 106th Annual Meeting in Charlotte, North Carolina on April 26-28, 2018. Congratulations Dr. La Farge.

ADJOURN

Dr. Jenkusky adjourned the first day [February 8, 2018] of the February Regular Board Meeting at 4:25 p.m.

Friday, February 9, 2018

Dr. Jenkusky reconvened the Medical Board and called the meeting to order at 8:35 a.m. on Friday, February 9, 2018; a quorum was present, Dr. Komadina and Dr. Beaudette excused.

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 Mr. Bourbon. **YES:** Dr. Jenkusky, Mr.

Dunlap, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **ABSENT:** Dr. Komadina and Dr. Beaudette. **MOTION CARRIED.**

10. Informal Interviews

Alden Cockburn, MD; Miles Nelson, MD; Orlando Ortiz, MD; Randolph Baca, MD; Richard Smith, MD; Jennifer Tso, PA; Suparna Saha, MD (telephonic) and Christopher Fletcher, 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. Compliance Requests / Actions

Alden Cockburn, MD – Request for release from stipulation. MOTION was made by Dr. Jenkusky to approve Dr. Cockburn's request for release from stipulation. **SECONDED** by Dr. Carson. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **ABSENT:** Dr. Komadina and Dr. Beaudette. **MOTION CARRIED.**

Molly Hutsinpillar, MD – Request for release from stipulation. MOTION was made by Dr. Jenkusky to approve Dr. Hutsinpillar's request for release from stipulation. **SECONDED** by Mr. Bourbon. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **ABSENT:** Dr. Komadina and Dr. Beaudette. **MOTION CARRIED.**

Miles Nelson, MD – Request to reactivate his MD License and to amend his stipulation to remove the \$1,000.00 fine due to financial hardship. MOTION was made by Dr. Jenkusky to deny Dr. Nelson's request to reactivate his MD license and to defer the fine until six months after Dr. Nelson is employed. **SECONDED** by Mr. Bourbon. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **ABSENT:** Dr. Komadina and Dr. Beaudette. **MOTION CARRIED.**

Jose Garcia, MD – Request for release from stipulation. MOTION was made by Dr. Jenkusky to approve Dr. Garcia's request for release from stipulation. **SECONDED** by Mr. Dunlap. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **ABSENT:** Dr. Komadina and Dr. Beaudette. **MOTION CARRIED.**

Wayne Kuang, MD – Request for release from stipulation. MOTION was made by Dr. Jenkusky to approve Dr. Kuang's request for release from stipulation. **SECONDED** by Mr. Bourbon. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **ABSENT:** Dr. Komadina and Dr. Beaudette. **MOTION CARRIED.**

Randolph Baca, MD – Request for release from stipulation. MOTION was made by Mr. Bourbon to approve Dr. Baca's request for release from stipulation. **SECONDED** by Dr. Styka. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **ABSENT:** Dr. Komadina and Dr. Beaudette. **MOTION CARRIED.**

Richard Smith, MD – Request for release from stipulation. MOTION was made by Dr. Jenkusky to deny Dr. Smith's request for release from stipulation. **SECONDED** by Dr. Spence. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **ABSENT:** Dr. Komadina and Dr. Beaudette. **MOTION CARRIED.**

Christopher Fletcher, MD – Request for release from stipulation. MOTION was made by Dr. Jenkusky to approve Dr. Fletcher's request for release from stipulation. **SECONDED** by Mr. Bourbon. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Spence, Dr. Carson, Dr. Styka and Mr. Bourbon. **ABSENT:** Dr. Komadina and Dr. Beaudette. **NO:** Ms. Anderson. **MOTION CARRIED.**

Joel Teicher, MD – Request for release from stipulation. MOTION was made by Dr. Jenkusky to approve Dr. Teicher’s release from stipulation. **SECONDED** by Mr. Bourbon. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **ABSENT:** Dr. Komadina and Dr. Beaudette. **MOTION CARRIED.**

Maria Martinez Ugarte, MD – Review of immigration status and status of license. MOTION was made by Dr. Jenkusky recommending voluntary inactivation of Dr. Martinez Ugarte’s license while dealing with immigration issues. **SECONDED** by Dr. Carson. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **ABSENT:** Dr. Komadina and Dr. Beaudette. **MOTION CARRIED.**

CLOSED SESSION: Licensing issues continued from Thursday, February 8, 2018

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

Thomas Prose, MD, 2003-0453 – Case No. 2017-026 – Decision and Order. MOTION by Dr. Jenkusky to accept the Hearing Officers Findings of Fact. **SECONDED** by Mr. Bourbon. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **ABSENT:** Dr. Komadina and Dr. Beaudette. **MOTION CARRIED.**

MOTION was made by Ms. Anderson to adopt the Hearing Officers Conclusions of Law with respect to jurisdiction, and that the following be added to the conclusions of law 1) that the OIG’s investigation and resulting settlement with Dr. Prose and his entities constituted adverse action; 2) The facts support that Dr. Prose failed to disclose in April 2009 on his NM Triennial renewal the OIG’s pending investigation, that Dr. Prose failed disclose on his May 2012 NM Triennial renewal application both the OIG’s investigation and the sanctions imposed on him, that Dr. Prose failed to report the adverse action taken by a governmental agency within the required time period, and that Dr. Prose misrepresented information on his application. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **ABSENT:** Dr. Komadina and Dr. Beaudette. **MOTION CARRIED.**

MOTION was made by Dr. Jenkusky to issue a reprimand to Dr. Prose. **SECONDED** by Dr. Carson. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **ABSENT:** Dr. Komadina and Dr. Beaudette. **NO:** Dr. Spence. **MOTION CARRIED.**

12. **New Business**
None

13. **Old Business**
FSMB Interstate Medical Licensure Compact.

Dr. Jenkusky stated that the Board will continue to research the Compact and reported the representatives from the FSMB will be at the May meeting to present information regarding the Interstate Compact.

Consider fines for 0% PMP Pulls. MOTION was made by Dr. Spence to approve the process as presented for licensees who are showing up on the Board of Pharmacy PMP Reports as a practitioner pulling less than 50% of the required PMP reports. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Jenkusky,

Mr. Dunlap, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **ABSENT:** Dr. Komadina and Dr. Beaudette. **MOTION CARRIED.**

Disciplinary Guidelines Committee Report – The guidelines are continuing to be worked out in committee.

Dale Gough and Bill Paver, Foreign Credentials Service of America (FCSA) – Mr. Gough explained the evaluation process in general. He explained the Caribbean Accreditation Authority and their levels of accreditation. Mr. Gough explained the processes in place to avoid any discrepancies with regard to education evaluations done by FCSA from this point forward. There was discussion regarding tasking the FSMB with Foreign Medical School evaluations after the California Medical Board's list of approved schools is expired in 2020.

MOTION was made by Dr. Jenkusky to reinstate FCSA as the Board's foreign medical education evaluation service. **SECONDED** by Mr. Bourbon. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Styka and Mr. Bourbon. **ABSENT:** Dr. Komadina and Dr. Beaudette. **MOTION CARRIED.**

14. ADJOURN

There being no further business before the Board, Dr. Jenkusky adjourned the meeting at 12:20 P.M.

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

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

APPROVED BY: _____ DATE: _____
Albert Bourbon, PA-C, Vice Chair