

**NEW MEXICO MEDICAL BOARD
Interim Board Meeting
State Bar of New Mexico
5121 Masthead NE, Albuquerque, NM 87109
June 27, 2019
FINAL MINUTES**

Members Present: Steve Jenkusky, MD, Chair
Peter Beaudette, MD, Vice Chair
Sebastian Dunlap, Esq., Public Member
Philip Styka, MD

Teleconference: Charles D. Otero, PA
Karen Carson, MD
James Spence, MD
Jennifer Anderson, Esq., Public Member

Other Staff Present: Sondra Frank, J.D., Executive Director
Yvonne Chicoine, Administrative Prosecutor
Debbie Dieterich, Investigations Manager
Amanda Quintana, PIO/Compliance Manager
Samantha Breen, Administrative Assistant

1. CALL TO ORDER / ROLL CALL

Dr. Jenkusky called the Interim Board Meeting of the New Mexico Medical Board to order at 4:06 p.m. and a quorum was present.

2. APPROVAL OF AGENDA

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

3. APPROVAL OF MINUTES

MOTION was made by Dr. Jenkusky to accept and approve the minutes of the May 16-17, 2019 Board Meeting as presented. **SECONDED** by PA Otero. **YES:** Dr. Jenkusky, Dr. Styka, Mr. Dunlap, Dr. Beaudette, Ms. Anderson, Dr. Carson, PA Otero and Dr. Spence. **MOTION CARRIED.**

4. LICENSING ISSUES, NEW APPLICANTS / REINSTATEMENTS

Dr. Jenkusky stated that because Dr. O'Hearn is present that he is allowed 10 minutes for oral argument regarding the matter and that Ms. Chicoine is allowed 10 minutes to reply.

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. Styka, Mr. Dunlap, Dr. Beaudette, Ms. Anderson, Dr. Carson, PA Otero and Dr. Spence.

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.

Charles O'Hearn, MD – Respondent's Motion for Summary Judgment.

MOTION was made by Dr. Jenkusky to **DENY** Respondent's Motion for Summary Judgment.

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

Charles O'Hearn, MD – Respondent's Motion to Include in the Evidentiary Record Information Regarding Texas Medical Board.

In the interest of allowing Dr. O'Hearn to present all evidence he believes is relevant to the Board's consideration of his application a **MOTION** was made by Dr. Jenkusky to **ACCEPT** the motion allowing additional evidence from Dr. O'Hearn regarding the outcome of the Texas Medical Board complaint against him alleging he made a misrepresentation on his 2016 application for renewal and the Board staff be directed to prepare an order to that affect. **SECONDED** by Dr. Styka. **YES:** Dr. Jenkusky, Dr. Styka, Mr. Dunlap, Dr. Beaudette, Ms. Anderson, Dr. Carson, PA Otero and Dr. Spence. **MOTION CARRIED.**

Charles O'Hearn, MD – Respondent's Motion to Strike all References to Matters Covered by the Texas Expunction Order.

MOTION was made by Dr. Jenkusky to **DENY** Respondent's Motion to Strike all References to Matters Covered by the Texas Expunction Order. **SECONDED** by Dr. Styka. **YES:** Dr. Jenkusky, Dr. Styka, Mr. Dunlap, Dr. Beaudette, Ms. Anderson, Dr. Carson, PA Otero and Dr. Spence. **MOTION CARRIED.**

Charles O'Hearn, MD – Respondent's Motion to Strike all References to Arrests Pursuant to NM Criminal Offender Act.

MOTION was made by Dr. Jenkusky to **DENY** Respondent's Motion to Strike all References to Arrests Pursuant to NM Criminal Offender Act. **SECONDED** by Dr. Styka. **YES:** Dr. Jenkusky, Dr. Styka, Mr. Dunlap, Dr. Beaudette, Ms. Anderson, Dr. Carson, PA Otero and Dr. Spence. **MOTION CARRIED.**

Charles O'Hearn, MD – Decision and Order on NCA Following Submission of Hearing Officer's Report.

MOTION was made by Dr. Jenkusky to accept the Hearing Officer's Report with the following amendments; FOF # 27 Replace the second sentence with the following: Respondent received a Health Professional Scholarship from the U.S. Army in November 1992; FOF #49(b) Amend to read: Had been arrested multiple times for what would constitute a pattern of unprofessional conduct, and; FOF #151 Replace second sentence with the following: According to law enforcement's request for the order, Respondent struck his ex-wife several times causing injury during a prior incident of domestic violence. **SECONDED** by Dr. Styka. **YES:** Dr. Jenkusky, Dr. Styka, Mr. Dunlap, Dr. Beaudette, Ms. Anderson, Dr. Carson, PA Otero and Dr. Spence. **MOTION CARRIED.**

MOTION was made by Dr. Jenkusky to accept the Prosecution's Proposed Findings of Fact and Conclusions of Law as presented. **SECONDED** by Dr. Styka. **YES:** Dr. Jenkusky, Dr. Styka, Mr. Dunlap, Dr. Beaudette, Ms. Anderson, Dr. Carson, PA Otero and Dr. Spence. **MOTION CARRIED.**

MOTION was made by Dr. Jenkusky to **DENY** Respondent's application for licensure to practice medicine in New Mexico. **SECONDED** by Dr. Styka. **YES:** Dr. Jenkusky, Dr. Styka, Mr. Dunlap, Dr. Beaudette, Ms. Anderson, Dr. Carson, PA Otero and Dr. Spence. **MOTION CARRIED.**

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. Styka, Mr. Dunlap, Dr. Beaudette, Ms. Anderson, Dr. Carson, PA Otero and Dr. Spence.

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.

5. ACTIONS RELATED TO EXECUTIVE SESSION

Complaint Committee A

Case #2019-A-132 RECOMMENDATION was made by Dr. Beaudette to offer applicant a stipulated license requiring mandatory participation in NMHPWP, along with payment of \$300 in costs for the two misrepresentations on his application. If applicant does not accept, a notice of contemplated action will be issued to deny licensure based on, but not limited to, habitual/excessive use of alcohol and substances and misrepresentation on application. **YES:** Dr. Jenkusky, Dr. Styka, Mr. Dunlap, Ms. Anderson, PA Otero and Dr. Spence. **RECUSED:** Dr. Beaudette and Dr. Carson. **MOTION CARRIED.**

Complaint Committee B

Case #2018-B-046 RECOMMENDATION was made by Dr. Jenkusky to offer physician a stipulated license with issuance of a reprimand; required controlled substance prescribing course by CPEP; permanent restriction on prescribing controlled substances to his practice partner and permanent restriction on receiving controlled substances from his practice partner; and payment of \$300 in costs for misrepresentation on renewals. If he does not accept, a notice of contemplated action will be issued based on, but not limited to, violation of Board Regulation on receiving opioids for chronic pain; violation of Board Regulation on PMP Use; injudicious prescribing; misrepresentation on renewal applications; and conduct unbecoming. **YES:** Dr. Styka, Mr. Dunlap, Dr. Beaudette, Ms. Anderson and Dr. Spence. **RECUSED:** Dr. Jenkusky, Dr. Carson and PA Otero. **MOTION CARRIED.**

Case #2019-B-062 RECOMMENDATION was made by Dr. Jenkusky to offer Resident M.D. a stipulated license requiring mandatory participation in the NMHPWP, along with payment of \$150 in costs for her failure to report an arrest as required. If Resident M.D. does not accept, a notice of contemplated action will be issued to deny renewal of her resident license based on, but not limited to, habitual/excessive use of alcohol or substances; failure to report; and conduct unbecoming. **YES:** Dr. Styka, Mr. Dunlap, Dr. Beaudette, Ms. Anderson, Dr. Carson and Dr. Spence. **RECUSED:** Dr. Jenkusky and PA Otero. **MOTION CARRIED.**

Case #2019-B-083 RECOMMENDATION was made by Dr. Jenkusky to close the case with no action and issuance of an unrestricted license. **YES:** Dr. Styka, Mr. Dunlap, Dr. Beaudette, Ms. Anderson, Dr. Carson and Dr. Spence. **RECUSED:** Dr. Jenkusky and PA Otero. **MOTION CARRIED.**

Complaint Committee C

Case #2018-C-110 RECOMMENDATION was made by Mr. Dunlap to close the case without further action. **YES:** Dr. Jenkusky, Dr. Styka, Dr. Beaudette, Ms. Anderson, Dr. Carson and PA Otero. **RECUSED:** Mr. Dunlap and Dr. Spence. **MOTION CARRIED.**

Case #2019-C-129 RECOMMENDATION was made by Mr. Dunlap to offer applicant the chance to withdraw his application for licensure while under investigation or the Board will issue a notice of contemplated action to deny based on, but not limited to, adverse licensure action in another state; incompetency to practice; failure to maintain accurate, timely and legible medical records; injudicious prescribing; and conduct unbecoming. **YES:** Dr. Jenkusky, Dr. Styka, Dr. Beaudette, Ms. Anderson, Dr. Carson and PA Otero. **RECUSED:** Mr. Dunlap and Dr. Spence. **MOTION CARRIED.**

Case #2019-C-134 RECOMMENDATION was made by Mr. Dunlap to offer physician the chance to withdraw his application for licensure while under investigation or the board will issue a notice of contemplated action to deny licensure based on, but not limited to, misrepresentation on an application; incompetency to practice; excessive use of alcohol; and dishonesty. **YES:** Dr. Jenkusky, Dr. Styka, Dr.

Beaudette, Ms. Anderson, Dr. Carson and PA Otero. **RECUSED:** Mr. Dunlap and Dr. Spence.
MOTION CARRIED.

Complaint Committee E

Case #2019-E-117 RECOMMENDATION was made by Ms. Anderson to close case with no action.
YES: Dr. Jenkusky, Dr. Styka, Mr. Dunlap, Dr. Beaudette, Dr. Carson, Dr. Spence and PA Otero.
RECUSED: Ms. Anderson **MOTION CARRIED.**

6. **Executive Committee Report**
None

7. **LICENSING ISSUES, NEW APPLICANTS / REINSTATEMENTS**

Mark Beale, MD – Motion for Default Order

MOTION was made by Dr. Jenkusky to **ACCEPT** the Motion for Default Order. **SECONDED** by Dr. Styka. **YES:** Dr. Jenkusky, Dr. Styka, Mr. Dunlap, Dr. Beaudette, Ms. Anderson, Dr. Carson, PA Otero and Dr. Spence. **MOTION CARRIED.**

Steven Greer, MD – Motion for Reimbursement of Costs.

MOTION was made by Dr. Jenkusky **APPROVE** the proposed motion as presented. **SECONDED** by Dr. Styka. **YES:** Dr. Jenkusky, Dr. Styka, Mr. Dunlap, Dr. Beaudette, Ms. Anderson, Dr. Carson, PA Otero and Dr. Spence. **MOTION CARRIED.**

Karyn Teel, MD – Motion to Accept Settlement Order.

MOTION was made by Dr. Jenkusky **ACCEPT** the proposed settlement order as presented. **SECONDED** by Dr. Styka. **YES:** Dr. Jenkusky, Dr. Styka, Mr. Dunlap, Dr. Beaudette, Ms. Anderson, Dr. Carson, PA Otero and Dr. Spence. **MOTION CARRIED.**

Monica Carten, MD – Consider Approval of UNM Mini-Sabbatical for Issuance of License.

MOTION was made by Dr. Jenkusky **ACCEPT** an unrestricted medical license to practice in New Mexico. **SECONDED** by Dr. Styka. **YES:** Dr. Jenkusky, Dr. Styka, Mr. Dunlap, Dr. Beaudette, Ms. Anderson, Dr. Carson, PA Otero and Dr. Spence. **MOTION CARRIED.**

Madeleine Crummer, MD – Consider Approval of Emergency Deferral for CME Past 90 Days.

MOTION was made by Dr. Jenkusky **ACCEPT** the emergency deferral for CME past 90 days with an additional month. **SECONDED** by Dr. Styka. **YES:** Dr. Jenkusky, Dr. Styka, Mr. Dunlap, Dr. Beaudette, Ms. Anderson, Dr. Carson, PA Otero and Dr. Spence. **MOTION CARRIED.**

Deepak Ozthail, MD – Consider Request for Exemption to the 7 Year Rule.

MOTION was made by Dr. Jenkusky **GRANT** physician applicant an unrestricted license to practice medicine in New Mexico. **SECONDED** by Dr. Styka. **YES:** Dr. Jenkusky, Dr. Styka, Mr. Dunlap, Dr. Beaudette, Ms. Anderson, Dr. Carson, PA Otero and Dr. Spence. **MOTION CARRIED.**

Amorette Maestas, MD – Consider Request for Exemption to the 7 Year Rule.

MOTION was made by Dr. Jenkusky **GRANT** physician applicant an unrestricted license to practice medicine in New Mexico. **SECONDED** by Dr. Styka. **YES:** Dr. Jenkusky, Dr. Styka, Mr. Dunlap, Dr. Beaudette, Ms. Anderson, Dr. Carson, PA Otero and Dr. Spence. **MOTION CARRIED.**

8. **Chair Report**

Dr. Jenkusky acknowledged Dr. Komadina's excellent service while he served on the Board.

Dr. Jenkusky reported to the Board that the Dean from UNM Medical School has asked him, Ms. Frank and Randy Marshall to have lunch in a couple of weeks.

9. Executive Director

Senate Bill 221

Ms. Frank gave the Board an update on Senate Bill 221 which requires health care providers who prescribe, distribute or dispense an opioid for the first time shall advise the patient on the risks of overdose and inform the patient of the availability of an opioid antagonist. Ms. Frank also reported that the NMMB staff in collaboration with the NM Health Department sent a letter notifying our licensees about the new law.

Personnel Issues

MOTION was made by Dr. Carson to increase the salary of the Executive Director by 20% as the budget allows. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Jenkusky, Dr. Styka, Mr. Dunlap, Dr. Beaudette, Ms. Anderson, Dr. Carson, PA Otero and Dr. Spence. **MOTION CARRIED.**


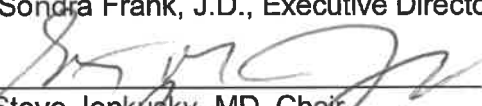
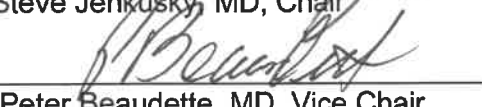
10. Old Business
PA's in NM Providing Medication Assisted Treatment

The board had a brief discussion.

MOTION was made by Dr. Jenkusky to propose a policy that all Physicians Assistants prescribing Buprenorphine will be considered practicing primary care and for supervised Physician Assistants they will not be required to have a supervising physician with the X waiver but they are strongly encouraged to access appropriate supervision by an [Project] Echo like entity or other appropriate sources. **SECONDED** by Dr. Styka. **YES:** Dr. Jenkusky, Dr. Styka, Mr. Dunlap, Dr. Beaudette, Ms. Anderson, Dr. Carson, PA Otero and Dr. Spence. **MOTION CARRIED.**

11. Adjourn

6:54 p.m.

SUBMITTED BY:		DATE:	<u>8/8/19</u>
	Sondra Frank, J.D., Executive Director		
APPROVED BY:		DATE:	<u>8/8/19</u>
	Steve Jenkusky, MD, Chair		
APPROVED BY:		DATE:	<u>8-8-19</u>
	Peter Beaudette, MD, Vice Chair		