

NEW MEXICO MEDICAL BOARD
Regular Board Meeting
May 14-15, 2020
MINUTES

Members Present: Steve Jenkusky, MD, Chair

Video Conferencing: Peter Beaudette, MD, Vice Chair- (Appeared Telephonically on May 14, 2020)
James Spence, MD
Karen Carson, MD
Eric Anderson, MD
Mark Unverzagt, MD
Buffie Saavedra, Public Member (Appeared at 9:15 a.m., May 14, 2020)

Others Present: Sondra Frank, Esquire, Executive Director
Debbie Dieterich, Investigations Manager
Amanda Quintana, Compliance Manager / PIO
Elishia Lucero, Administrative Assistant
Gayle Mascarenas, CFO/HR Manager- Via Zoom
Grant LaFarge, MD, Medical Director- Via Zoom

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

3. APPROVAL OF MINUTES

MOTION was made by Dr. Anderson to accept and approve the minutes of the April 16, 2020 Special Board Meeting as presented. **SECONDED** by Dr. Unverzagt **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, and Dr. Unverzagt, **EXCUSED:** Ms. Saavedra. **RECUSED:** Dr. Jenkusky **MOTION CARRIED.**

EXECUTIVE SESSION: Complaint Committee Reports

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. Anderson. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson and Dr. Unverzagt. **EXCUSED:** 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.

ACTIONS RELATED TO EXECUTIVE SESSION

Complaint Committee A

RECOMMENDATION was made by Dr. Jenkusky to **CLOSE** the following cases: 2019-A-031; 2019-A-177; 2019-A-215; 2019-A-240; 2019-A-262; 2019-A-297; 2020-A-007; **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson and Dr. Unverzagt. **RECUSED:** Dr. Jenkusky and Ms. Saavedra **MOTION CARRIED**

Case #2019-A-274 RECOMMENDATION was made by Dr. Jenkusky to **CLOSE** this case with an advisory letter reminding physician of the need to maintain accurate patient medical records. **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson and Dr. Unverzagt. **RECUSED:** Dr. Jenkusky and Ms. Saavedra **MOTION CARRIED**

Case #2019-A-314 RECOMMENDATION was made by Dr. Jenkusky to **CLOSE** this case with an advisory letter reminding physician of the Board's regulations on reporting requirements and assess \$150.00 in costs. **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson and Dr. Unverzagt. **RECUSED:** Dr. Jenkusky and Ms. Saavedra **MOTION CARRIED**

Case #2020-A-010 RECOMMENDATION was made by Dr. Jenkusky to **CLOSE** this case with an advisory letter reminding physician about the Board's regulations on reporting requirements and assess \$150.00 in costs. **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson and Dr. Unverzagt. **RECUSED:** Dr. Jenkusky and Ms. Saavedra **MOTION CARRIED**

Case #2020-A-066 RECOMMENDATION was made by Dr. Jenkusky **CLOSE** this case with an advisory letter to PA and Physician regarding improved communications with patients and family members and maintain complete and accurate medical records. **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson and Dr. Unverzagt. **RECUSED:** Dr. Jenkusky and Ms. Saavedra **MOTION CARRIED**

Case #2019-A-245 RECOMMENDATION was made by Dr. Jenkusky to offer physician a stipulated license restricting physician from practicing in cosmetic spas unless or until approved by the Board along with a \$3,000.00 fine and issuance of a reprimand. If physician does not accept, a notice of contemplated action will be issued based on, but not limited to, failure to adequately supervise a professional licensee who renders health care, violation of Board Regulations and conduct likely to deceive the public. **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson and Dr. Unverzagt. **RECUSED:** Dr. Jenkusky and Ms. Saavedra **MOTION CARRIED.**

Case #2020-A-050 RECOMMENDATION was made by Dr. Jenkusky to offer physician the issuance of a reprimand and a fine of \$2,000.00. If physician does not accept, a notice of contemplated action will be issued based on, but not limited to, failure to furnish the Board with information requested by the Board and misrepresentation on an application. **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson and Dr. Unverzagt. **RECUSED:** Dr. Jenkusky and Ms. Saavedra **MOTION CARRIED.**

Complaint Committee B

RECOMMENDATION was made by Dr. Anderson to **CLOSE** the following cases: 2018-B-296; 2019-B-072; 2019-B-172; 2019-B-174; 2019-B-175; 2019-B-228; 2019-B-261; 2019-B-270; 2019-B-275; 2020-B-006; 2020-B-025; 2020-B-037 **YES:** Dr. Beaudette, Dr. Jenkusky, Dr. Carson and Dr. Unverzagt **RECUSED:** Dr. Anderson and Dr. Spence **MOTION CARRIED.**

Case #2018-B-158 RECOMMENDATION was made by Dr. Anderson to **CLOSE** this case with an advisory letter reminding physician about providing the required 30-day termination letter with continuity of care. **YES:** Dr. Beaudette, Dr. Jenkusky, Dr. Carson, Dr. Unverzagt and Ms. Saavedra **RECUSED:** Dr. Anderson and Dr. Spence **MOTION CARRIED.**

Case #2019-B-235 RECOMMENDATION was made by Dr. Anderson to **CLOSE** this case with an advisory letter about accommodating patients with their refills of medication if physician had knowledge about patient's calls. **YES:** Dr. Beaudette. Dr. Jenkusky, Dr. Carson, Dr. Unverzagt and Ms. Saavedra **RECUSED:** Dr. Anderson and Dr. Spence **MOTION CARRIED.**

Case #2018-B-123 RECOMMENDATION was made by Dr. Anderson to offer physician a stipulated license requiring an NMHPWP assessment and compliance with any recommendations made by NMHPWP and the Board, along with issuance of reprimand and assessment of costs in the amount of \$150.00 for physician's failure to report an arrest in a timely manner. If physician does not accept, a notice of contemplated action will be issued based on, but not limited to, conduct unbecoming, failure to cooperate with a Board investigation and failure to report in a timely manner. **YES:** Dr. Beaudette. Dr. Jenkusky, Dr. Carson, Dr. Unverzagt and Ms. Saavedra **RECUSED:** Dr. Anderson and Dr. Spence **MOTION CARRIED.**

Case #2020-B-046 RECOMMENDATION was made by Dr. Anderson to offer PSGT applicant a stipulated license requiring mandatory participation in NMHPWP. 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 or substances and conduct unbecoming. **YES:** Dr. Beaudette. Dr. Jenkusky, Dr. Carson, Dr. Unverzagt and Ms. Saavedra **RECUSED:** Dr. Anderson and Dr. Spence **MOTION CARRIED.**

Case #2020-B-051 RECOMMENDATION was made by Dr. Spence to issue a notice of contemplated action based on, but not limited to, violation of the Parental Responsibility Act. **YES:** Dr. Beaudette. Dr. Jenkusky, Dr. Carson, Dr. Unverzagt and Ms. Saavedra **RECUSED:** Dr. Anderson and Dr. Spence **MOTION CARRIED.**

Complaint Committee C

RECOMMENDATION was made by Dr. Carson to **CLOSE** the following cases: 2018-C-292; 2018-C-295; 2019-C-034; 2019-C-049; 2019-C-079; 2019-C-120; 2019-C-140; 2019-C-176; 2019-C-178; 2019-C-184; 2019-C-185; 2019-C-191; 2019-C-195; 2019-C-265; 2019-C-266; 2020-C-001 **YES:** Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **RECUSED:** Dr. Carson and Dr. Beaudette. **MOTION CARRIED.**

Case #2018-C-245 was made by Dr. Carson to **CLOSE** this case with an advisory letter reminding physician about signing death certificates within 48 hours per New Mexico law. **YES:** Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **RECUSED:** Dr. Carson and Dr. Beaudette. **MOTION CARRIED.**

Case #2019-C-063 RECOMMENDATION was made by Dr. Carson to **CLOSE** this case with an advisory letter to the physician reminding physician about the Board's regulations on reporting adverse actions, assessment of \$150.00 in costs and advise physician the Board is concerned with the allegations and will be monitoring future complaints. **YES:** Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **RECUSED:** Dr. Carson and Dr. Beaudette. **MOTION CARRIED.**

Case #2019-C-199 RECOMMENDATION was made by Dr. Carson to **CLOSE** this case with an advisory letter reminding physician about the Board's regulations on reporting adverse actions and assessment of \$150.00 in costs. **YES:** Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **RECUSED:** Dr. Carson and Dr. Beaudette. **MOTION CARRIED.**

Case #2018-C-119 and 2020-C-028 RECOMMENDATION was made by Dr. Carson to offer physician the chance to place license on inactive status in lieu of issuance of a summary suspension based on imminent danger to the public, along with issuance of a notice of contemplated action based on, but not limited to, injudicious prescribing, failure to maintain accurate and complete medical records, violation

of the Board's Regulation on prescribing controlled substances for chronic pain and other conditions, conduct likely to harm, incompetency to practice, gross negligence, and repeated similar negligent acts. **YES:** Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **RECUSED:** Dr. Carson and Dr. Beaudette. **MOTION CARRIED.**

Complaint Committee D

RECOMMENDATION was made by Dr. Unverzagt to **CLOSE** the following cases: # 2018-D-299; 2019-D-048; 2019-D-119; 2019-D-182; 2019-D-188; 2019-D-193; 2019-D-212; 2019-D-225; 2019-D-237; 2019-D-253; 2019-D-277; 2019-D-291; 2019-D-293; 2019-D-298; 2020-D-002 **YES:** Dr. Beaudette, Dr. Jenkusky, Dr. Spence, Dr. Carson, Dr. Anderson and Ms. Saavedra. **RECUSED:** Dr. Unverzagt. **MOTION CARRIED.**

Case #2019-D-272 RECOMMENDATION was made by Dr. Unverzagt to **CLOSE** this case with a strongly worded advisory letter expressing the Board's concern about the delay in patient care by physician, late entries in patient's medical records and the poor follow-up care received by patient. The Board will be monitoring future complaints against physician. **YES:** Dr. Beaudette, Dr. Jenkusky, Dr. Spence, Dr. Carson, Dr. Anderson and Ms. Saavedra. **RECUSED:** Dr. Unverzagt. **MOTION CARRIED.**

Case #2019-D-306 RECOMMENDATION was made by Dr. Unverzagt to offer 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, adverse licensure action, repeated similar negligent acts, and misrepresentation on an application. **YES:** Dr. Beaudette, Dr. Jenkusky, Dr. Spence, Dr. Carson, Dr. Anderson and Ms. Saavedra. **RECUSED:** Dr. Unverzagt. **MOTION CARRIED.**

Case #2020-D-074 RECOMMENDATION was made by Dr. Unverzagt to offer 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, conduct likely to harm, interaction with others that could adversely affect patient care, misrepresentation on application and conduct unbecoming. **YES:** Dr. Beaudette, Dr. Jenkusky, Dr. Spence, Dr. Carson, Dr. Anderson and Ms. Saavedra. **RECUSED:** Dr. Unverzagt. **MOTION CARRIED.**

ADJOURN

Dr. Jenkusky adjourned the first day [May 14, 2020] of the May Regular Board Meeting at 10:35 a.m.

Friday, May 15, 2020

Dr. Jenkusky reconvened the Medical Board and called the meeting to order at 8:30 a.m. on Friday, May 15, 2020; a quorum was present.

EXECUTIVE SESSION: LICENSING ISSUES, NEW APPLICANTS/ REINSTATMENTS

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. Anderson. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt 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. LICENSING ISSUES, NEW APPLICANTS / REINSTATEMENTS

Ryan Freemyer, MD- Motion for Default Order

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

MOTION was made by Dr. Jenkusky to suspend Dr. Freemyer's license. **SECONDED** by Dr. Anderson. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **MOTION CARRIED**

Suparna Saha, MD – Motion and Order for Reimbursement of Costs

MOTION was made by Dr. Jenkusky to approve the Motion and Order for Reimbursement of Costs. **SECONDED** by Dr. Anderson. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **MOTION CARRIED**

Christopher Fletcher, MD – Motion and Order for Reimbursement of Costs.
Tabled

Arlene Brown, MD – Motion and Order for Reimbursement of Costs

MOTION was made by Dr. Unverzagt to approve the Motion and Order for Reimbursement of Costs and allow attorneys to negotiate costs as needed. **SECONDED** by Dr. Anderson **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Unverzagt and Ms. Saavedra. **Recused:** Dr. Jenkusky. **MOTION CARRIED**

MOTION was made by Dr. Carson to deny Dr. Brown's Motion to Reconsider the Board's decision and to strike her response to the prosecution's response to the hearing officers proposed findings of fact and to adopt the conclusions of law similar to those proposed by the prosecution. **SECONDED** by Dr. Anderson **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Ms. Anderson, Dr. Unverzagt and Ms. Saavedra. **Recused:** Dr. Jenkusky. **MOTION CARRIED**

Adbul Ahmed – Consider Approval of Work Experience in and Outside the US in Lieu of 2 Years PGT.

MOTION was made by Jenkusky to accept work experience in lieu of 2 years of postgraduate training and issue an unrestricted license. **SECONDED** by Dr. Anderson. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **MOTION CARRIED**

Masahiro Ono, MD – Consider approval of non- ACGME Fellowship and Work Experience Outside the US in lieu of 2 Years PGT for Issuance of an Unrestricted License.

MOTION was made by Jenkusky to approve non ACGME fellowship and work experience in lieu of 2 years post graduate training and issue an unrestricted license. **SECONDED** by Dr. Anderson. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **MOTION CARRIED**

5. Compliance Requests / Actions

Jenny Hargrove, MD – Request for Release Stipulation.

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

David Williams, MD – Request for Release 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. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **MOTION CARRIED**

6. REPORTS

Financial /HR Manager

Approve FY2021 Annual Operating Budget

MOTION was made by Dr. Jenkusky to **APPROVE** the FY2021 Operating Budget. **SECONDED** by Dr. Anderson **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **MOTION CARRIED.**

Approve Per Diem for Virtual Meetings

MOTION was made by Dr. Jenkusky to **APPROVE** per diem for virtual meetings. **SECONDED** by Dr. Anderson **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **MOTION CARRIED.**

Executive Director Report

Ms. Frank shared with the Board that after attending multiple state meetings with other licensing Boards, it comes to no surprise and has been reiterated, that NMMB continues to be a leader when responding to a crisis.

Ms. Frank stated that the Medical Board had already begun emergency procedures and was able to quickly put into place the Federal Emergency License that allows providers to be licensed within one week.

Ms. Frank also shared that the NMMB has always been well served and a well respected, and took a moment to thank the Board members and staff for their service.

Board Chair Report

Nothing to report.

7. Board Attorney Report

Yvonne Chicoine, Esq. – Report

Yvonne Chicoine, Esq. Provided the Board with a summary of Prosecution Statistics.

8. New Business

Election of Officers

Dr. Beaudette was nominated by Dr. Jenkusky as Chairman, Dr. Beaudette accepted. There were no objections. Dr. Beaudette is now Chairman by acclimation.

Dr. Jenkusky nominated Dr. Carson as Vice Chair; Dr. Carson accepted. There were no objections. Dr. Carson is Vice Chair by acclimation.

Dr. Jenkusky volunteered to be Secretary Treasurer, there were no objections. Dr. Jenkusky is Secretary Treasurer by acclimation.

Adoption of the Open Meetings Act.

MOTION was made by Dr. Jenkusky to adopt the Open Meetings Act. **SECONDED** by Dr. Anderson. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **MOTION CARRIED.**

16. ADJOURN

There being no further business before the Board, Dr. Jenkusky adjourned the meeting at 10:35 A.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