

**NEW MEXICO MEDICAL BOARD
Interim Board Meeting
February 18-19, 2021
MINUTES**

MEETING MADE PUBLIC VIA ZOOM AND TELECONFERENCE

- Members Present:** Peter Beaudette, M.D., Chair
Steve Jenkusky, M.D., Secretary Treasure
- Video Conferencing:** Karen Carson, M.D., Vice Chair
James Spence, M.D.
Eric Anderson, M.D.- Excused
Mark Unverzagt, M.D.
Buffie Saavedra, Public Member
Kathy Johnson, PA
- Others Present:** Sondra Frank, Esquire, Executive Director
Amanda Quintana, Compliance Manager / PIO- Via Zoom
Elishia Lucero, Administrative Assistant
Samantha Breen, Compliance Coordinator- Via Zoom
Debbie Dieterich, Investigations Manager- Via Zoom
Antoinette Griego, Licensing Manager-Via Zoom
Gayle Mascarenas, CFO/HR Manager – Via Zoom
Karen Acosta, Financial Administrator- Via Zoom

1. CALL TO ORDER / ROLL CALL

Dr. Beaudette, after establishing the presence of a quorum, called the February 18-19, 2021 Regular Board Meeting of the New Mexico Medical Board to order at 8:45 a.m., roll call was completed.

Introduction of New Board Member

The Board took a moment to welcome Kathy Johnson, PA, to the Board.

2. APPROVAL OF AGENDA

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

3. APPROVAL OF MINUTES

MOTION was made by Dr. Jenkusky to approve the minutes from the January 7, 2021 Interim Board meeting. **SECONDED** by Dr. Unverzagt **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson. **EXCUSED:** Dr. Anderson **MOTION CARRIED.**

EXECUTIVE SESSION: Compliance, New Mexico Health Professional Wellness Program and Complaint Committee Reports.

MOTION was made by Dr. Unverzagt 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. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson **EXCUSED:** Dr. Anderson **MOTION CARRIED.**

4. **New Mexico Health Professional Wellness Program Report**

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

5. **Informal Interviews- (appearing via zoom)**

David Durham, MD; Danielle Hewey, PA; Chad Berryman, MD; Jane McMillan, MD, Marc O’Cleireachain, MD; Ryan Lubert, MD and John Mohs, MD who appeared telephonically.

OPEN SESSION

The Board returned to open session. Dr. Beaudette 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 Reports A: Licensing and Applicants

Committee A

Recommendation was made by Dr. Jenkusky to **CLOSE** the following cases: 2019-A-053; 2020-A-101; 2020-A-126; 2020-A-144 AND 2020-A-145. **YES:** Dr. Beaudette, Dr. Carson, Dr. Spence, Dr. Unverzagt and Ms. Johnson **EXCUSED:** Dr. Anderson **RECUSED:** Dr. Jenkusky and Ms. Saavadra **MOTION CARRIED**

Case #2019-A-209 Recommendation was made by Dr. Jenkusky to close this case with a strongly worded advisory letter cautioning physician about the violation of HIPPA provisions if sharing patient information with another patient. **YES:** Dr. Beaudette, Dr. Carson, Dr. Spence, Dr. Unverzagt and Ms. Johnson **EXCUSED:** Dr. Anderson **RECUSED:** Dr. Jenkusky and Ms. Saavadra **MOTION CARRIED**

Case #2019-A-125 Recommendation was made by Dr. Jenkusky to close this case with an advisory letter reminding PA about compliance with the Board’s regulations on Prescribing Controlled Substances and PMP use and maintaining professionalism. **YES:** Dr. Beaudette, Dr. Carson, Dr. Spence, Dr. Unverzagt and Ms. Johnson **EXCUSED:** Dr. Anderson **RECUSED:** Dr. Jenkusky and Ms. Saavadra **MOTION CARRIED**

Case #2019-A-088 Recommendation was made by Dr. Jenkusky to close this case with a an advisory letter reminding physician to improve office practices and patient communication and refer patient to Department of Insurance for alleged fraudulent billing compliant. **YES:** Dr. Beaudette, Dr. Carson, Dr. Spence, Dr. Unverzagt and Ms. Johnson **EXCUSED:** Dr. Anderson **RECUSED:** Dr. Jenkusky and Ms. Saavadra **MOTION CARRIED**

Case #2019-A-186 Recommendation was made by Dr. Jenkusky to close this case with an advisory letter reminding physician of the Board’s Regulation on Reporting and assessing \$150.00 in costs. **YES:** Dr. Beaudette, Dr. Carson, Dr. Spence, Dr. Unverzagt and Ms. Johnson **EXCUSED:** Dr. Anderson **RECUSED:** Dr. Jenkusky and Ms. Saavadra **MOTION CARRIED**

Case #2020-A-312 Recommendation was made by Dr. Jenkusky to close this case and issue a medical license with an advisory letter reminding physician about disclosure of information on an application and assessing \$150.00 in costs. **YES:** Dr. Beaudette, Dr. Carson, Dr. Spence, Dr. Unverzagt and Ms. Johnson **EXCUSED:** Dr. Anderson **RECUSED:** Dr. Jenkusky and Ms. Saavadra **MOTION CARRIED**

Committee B

Recommendation was made by Dr. Spence to **CLOSE** the following cases: 2020-B-086; 2020-B-106; 2020-B-156; and 2020-B-304. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Unverzagt, Ms. Saavedra

and Ms. Johnson **EXCUSED**: Dr. Anderson. **RECUSED**: Dr. Spence **MOTION CARRIED**

Case #2020-B-173 Recommendation was made by Dr. Spence to close this case with an advisory letter reminding physician assistant about responding to a Board's request in a timely manner and reminding physician assistant to maintain her own wellness so it does not adversely affect patient care. **YES**: Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson **EXCUSED**: Dr. Anderson. **RECUSED**: Dr. Spence **MOTION CARRIED**

Case #2021-B-001 Recommendation was made by Dr. Spence to close this case and issue a medical license with an advisory letter cautioning physician applicant about misrepresenting information on an application and assessing \$300.00 in costs. **YES**: Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson **EXCUSED**: Dr. Anderson. **RECUSED**: Dr. Spence **MOTION CARRIED**

Case #2020-B-313 Recommendation was made by Dr. Spence to offer physician applicant a stipulated license requiring mandatory participation in NMHPWP and assessing \$300.00 in costs for the misrepresentation on the application. If physician applicant does not accept offer, she 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, habitual/excessive use of alcohol or substances and misrepresentation on application. **YES**: Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson **EXCUSED**: Dr. Anderson. **RECUSED**: Dr. Spence **MOTION CARRIED**

Committee C

Recommendation was made by Dr. Beaudette to **CLOSE** the following cases: 2020-C-110; 2020-C-138; 2020-C-154; 2020-C-167 and 2020-C-176 **YES**: Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson **EXCUSED**: Dr. Anderson **RECUSED**: Dr. Beaudette and Dr. Carson **MOTION CARRIED**

Case #2020-C-157 Recommendation was made by Dr. Beaudette to close this case with an advisory letter reminding physician assistant on Board's regulations on closing a medical practice and notification of patients. **YES**: Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson **EXCUSED**: Dr. Anderson **RECUSED**: Dr. Beaudette and Dr. Carson **MOTION CARRIED**

Case #2020-C-161 Recommendation was made by Dr. Beaudette to close this case with an advisory letter reminding physician assistant about Board's Regulations on closing a medical practice and notification of patients. **YES**: Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson **EXCUSED**: Dr. Anderson **RECUSED**: Dr. Beaudette and Dr. Carson **MOTION CARRIED**

Case #2020-C-179 Recommendation was made by Dr. Beaudette to close this case with an advisory letter reminding physician about the Board's Regulations on timely reporting and assessing \$150.00 in costs. **YES**: Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson **EXCUSED**: Dr. Anderson **RECUSED**: Dr. Beaudette and Dr. Carson **MOTION CARRIED**

Case #2020-C-314 Recommendation was made by Dr. Beaudette to close this case and issue a license with an advisory letter reminding physician applicant about the Board's Regulations on telemedicine practice in New Mexico. **YES**: Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson **EXCUSED**: Dr. Anderson **RECUSED**: Dr. Beaudette and Dr. Carson **MOTION CARRIED**

Case #2020-C-323 Recommendation was made by Dr. Beaudette to offer Resident M.D. a stipulated license requiring mandatory participation in NMHPWP for the duration of his residency, and quarterly interviews with the Board. If Resident M.D. does not accept offer, he may withdraw his application while under investigation or a notice of contemplated action will be issued to deny licensure based on, but not limited to,

conduct unbecoming, injudicious administering or dispensing of a drug, and ethics violations. **YES:** Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson. **EXCUSED:** Dr. Anderson **RECUSED:** Dr. Beaudette and Dr. Carson **MOTION CARRIED**

Case #2020-C-146 Recommendation was made by Dr. Beaudette to close this case with an advisory letter to physician regarding proper use of suboxone to patients in the treatment of addiction and pain. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson. **EXCUSED:** Dr. Anderson **RECUSED:** Dr. Beaudette and Dr. Carson. **MOTION CARRIED**

Committee D

Recommendation was made by Dr. Unverzagt to **CLOSE** the following cases: 2019-D-269; 2020-D-018; 2020-D-139. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Ms. Saavedra and Ms. Johnson **EXCUSED:** Dr. Anderson **RECUSED:** Dr. Unverzagt **MOTION CARRIED**

Case #2020-D-094 Recommendation was made by Dr. Unverzagt to close this case with an advisory letter recommending improved communication with patients. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Ms. Saavedra and Ms. Johnson **EXCUSED:** Dr. Anderson **RECUSED:** Dr. Unverzagt **MOTION CARRIED**

Case #2020-D-205 Recommendation was made by Dr. Unverzagt to offer physician the opportunity to Voluntarily surrender his license. If physician does not accept, a notice of contemplated will be issued based on, but not limited to, incompetency to practice. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Ms. Saavedra and Ms. Johnson **EXCUSED:** Dr. Anderson **RECUSED:** Dr. Unverzagt **MOTION CARRIED**

Case #2020-D-315 Recommendation was made by Dr. Unverzagt to offer physician a medical license with issuance of a reprimand and \$1000.00 fine. If physician does not accept, she may withdraw her 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 and ethical violations. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky Dr. Spence, Ms. Saavedra and Ms. Johnson **EXCUSED:** Dr. Anderson **RECUSED:** Dr. Unverzagt **MOTION CARRIED**

Complaint Committee Reports B: Executive Committee Report

Report for review

7. ADJOURN

Dr. Beaudette adjourned the first day [February 18, 2021] of the February Regular Board Meeting at 12:06 p.m.

Friday, February 19, 2021

Dr. Beaudette reconvened the Medical Board and called the meeting to order at 8:38 a.m. on Friday, February 19, 2021; a quorum was present.

EXECUTIVE SESSION: COMPLIANCE AND 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 Ms. Johnson **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson **EXCUSED:** Dr. Anderson **MOTION CARRIED.**

8. Compliance Request/Actions

Arron Mayberry, MD-Request to be released from stipulation.

MOTION was made by Dr. Jenkusky to release Dr. Mayberry from stipulation and issue an unrestricted license.

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

Sumir Brahmhatt, MD- Request to be released from stipulation.

MOTION was made by Dr. Jenkusky to release Dr. Mayberry from stipulation and issue an unrestricted license.

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

Richard Smith, MD- Request to be released from stipulation.

Tabled

Danielle Hewey, PA- Request to reactive license while under stipulation.

MOTION was made by Dr. Jenkusky to deny Ms. Hewey's reactive license while under stipulation.

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

9. Licensing Issues, New Applicants/Reinstatements

Richard Lawton, M.D.- Tabled

10. Reports

A. Executive Director

Ms. Frank reported that the Board was asked to provide Fiscal Impact Reports for several Bills. The most important to the Board being SB279 – Osteopathic Medicine Changes, which would allow for the DO's to be regulated by the NMMB.

B. Finance

Ms. Mascarenes reported to the Board, the following items;

FY20 Financial Audit

The Audit Firm, Auditor Porch & Associates LLC (Thad Porch) who conducted the audit presented the FY20 Audit to the Board.

After review of the Audit, the following motion was made.

MOTION was made by Dr. Beaudette to approve the FY20 Financial Audit. **SECONDED** by Dr. Jenkusky **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson **EXCUSED:** Dr. Anderson **MOTION WAS CARRIED**

HAFAC NM Medical Board FY22 Appropriation Request Budget Hearing

Ms. Mascarenes reported that her and Ms. Frank attended the HAFAC subcommittee hearing virtually on January 26, 2021 in which the HAFAC recommended the Executive recommendation (7.2% less or 3%) than the agency requested.

200 \$1,383.2

300 \$ 544.0

400 \$ 402.5

Total \$2,329.7 \$2,329.7 Other Revenues = \$2,329.7

Under the Information Technology Appropriations (C2 funding) the NM Medical Board requested \$996.3 from Other State Funds for the Licensing Software Modernization for Fiscal Year 2022. The Executive and LFC recommended \$500.0 which is about 50% of the amount requested by the agency.

FY21 Budget/Revenue Status

Report the FY21 Budget/Revenue Status ending January 31, 2021.

The Budget and Revenue Status ending January 31, 2021 are as follows:

- ✓ From July 1, 2020 through January 31, 2021 expenditures total **\$1,167,952 (or 49.98%)** of budgeted expenditures (Opbud \$2,336,900);
- ✓ From July 1, 2020 through January 31, 2021 the agency collected revenues in the amount of **\$650,608 (or 30.45%)** of budgeted revenues of **\$2,136,900**.
- ✓ The Fund Balance on June 30, 2020 is **\$1,717,603**. The cash balance as of February 17, 2021 is **\$1,246,687**.

For your reference you received the FY21 Statistics Summary that reflects the application/renewal and other fees that make up the total revenues collected in FY21 beginning on 7/1/20 through 1/31/2021 in the amount of \$650,608.

11. Board Attorney Report

Margaret McLean, J.D.- For Review

Yvonne Chicoine, Esq. – For Review

12. New Business

Pharmacist Prescriptive Authority 16.19.26 NMAC Amendments

Cheranne McCracken, Executive Director of Board of Pharmacy, presented to the Board the upcoming amendments to rule 16.19.26 NMAC. Ms. McCracken stated the reason for the amendment was to update existing sections and add to sections addressing prescribing dangerous drugs in conjunction with point of care testing (POCT). Ms. McCracken stated that this is language is clean up on the existing rule(s).

After much discussion of the presented changes, the following motion was made:

MOTION was made by Dr. Unverzagt to approve the changes as presented **SECONDED** Dr. Beaudette **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Unverzagt, and Ms. Saavedra **NO:** Dr. Spence. **ABSTAINED:** Ms. Johnson. **EXCUSED:** Dr. Anderson **MOTION WAS CARRIED**

By request from Dr. Spence, the following amendments were made to the above Motion.

AN AMENDED MOTION was made by Dr. Unverzagt to vote on section 16.19.26.9 (Vaccines) separately. **SECONDED** Dr. Beaudette **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Spence Dr. Unverzagt, and Ms. Saavedra. **ABSTAINED:** Ms. Johnson **EXCUSED:** Dr. Anderson **MOTION WAS CARRIED**

MOTION was made by Dr. Jenkusky to accept the changes as presented to section 16.19.26.9 (Vaccines). **SECONDED** by Dr. Unverzagt **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Unverzagt, and Ms. Saavedra **NO:** Dr. Spence. **ABSTAINED:** Ms. Johnson **EXCUSED:** Dr. Anderson **MOTION WAS CARRIED**

13. Old Business

PMP Compliance Report

Ms. Quintana updated the Board on the status of the PMP Compliance Efforts.

CE Broker Presentation

Jason Grubb, Client Engagement Manager and Jason Mann, CEO of CE Broker presented to the Board the process of CE Broker accounts. Mr. Grubb informed the Board that CE Broker is a company that assists in tracking continuing education courses taken by health care individuals licensed by a board, and is an integrated system that will link with the Board’s current licensing system to help track CME during the renewal process. CE Broker will enforce and assure compliance at the time of renewal to assure that the provider is up to date with all required Continuing Medical education courses (CME).

Antoinette Griego, Licensing Manager, informed the Board that the Board has utilized CE Broker for CME audits and would like to expand using CE Broker as a resource to gather CME information during renewals.

MOTION was made by Dr. Spence to move forward with CE Broker as an optional resource during renewals to assist the Board in gathering CME. **SECONDED** by Dr. Beaudette **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson. **EXCUSED:** Dr. Anderson **MOTION CARRIED**

14. Adjourn

There being no further business before the Board, Dr. Beaudette adjourned the meeting at 12:00 pm.

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

DATE: _____

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

DATE: _____

APPROVED BY: _____
Karen Carson, M.D., Vice Chair

DATE: _____