

**NEW MEXICO MEDICAL BOARD
Regular Board Meeting
November 4-5, 2021
MINUTES**

MEETING MADE PUBLIC VIA ZOOM AND TELECONFERENCE

Members Present: Peter Beaudette, M.D., Chair
Steve Jenkusky, M.D., Secretary Treasurer
Eric Anderson, M.D. Arrived @ 11:30am
Mark Unverzagt, M.D.
Kristin Reidy, D.O.

Video Conferencing: Karen Carson, M.D., Vice Chair
James Spence, M.D.
Eric Anderson, M.D. Until 11:15 am
Buffie Saavedra, Public Member
Kathy Johnson, PA
Bradley Scoggins, D.O

Others Present: Sondra Frank, Esquire, Executive Director
Michael Nunez, Esq., Administrative Prosecutor-Via Zoom
Amanda Quintana, Compliance Manager / PIO
Elishia Lucero, Administrative Assistant
Samantha Breen, Compliance Coordinator- Via Zoom
Debbie Dieterich, Investigations Manager
Antoinette Griego, Licensing Manager
Gayle Mascarenas, CFO/HR Manager

1. CALL TO ORDER / ROLL CALL

Dr. Beaudette, after establishing the presence of a quorum, called the November 4-5, 2021, Regular Board Meeting of the New Mexico Medical Board to order at 8:37 a.m., roll call was completed.

2. APPROVAL OF AGENDA

MOTION was made by Dr. Jenkusky to approve the agenda. **SECONDED** by Dr. Reidy. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt, Ms. Saavedra, PA Johnson, Dr. Scoggins, and Dr. Reidy. **MOTION CARRIED.**

3. APPROVAL OF MINUTES

MOTION was made by Dr. Jenkusky to approve the minutes from the September 23, 2021, Interim Board meeting. **SECONDED** by Dr. Carson. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt, Ms. Saavedra, PA Johnson, Dr. Scoggins, and Dr. Reidy. **MOTION CARRIED.**

EXECUTIVE SESSION: Compliance, New Mexico Health Professional Wellness Program and 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. Carson. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt, Ms. Saavedra, PA Johnson, Dr. Scoggins, and Dr. Reidy. **MOTION CARRIED.**

4. New Mexico Health Professional Wellness Program Report

Mary Lynn Griffin, Leah Nelson, MD and Executive Director, Adam Vareika, from HPWP presented the status of all mandatory HPWP participants and answered questions from the Board.

5. Informal Interviews- (appearing via zoom)

Miles Nelson, MD; Jeffery Niedhart, MD; Charlesly Joseph, MD; Steven Black, MD; Stephen Coleman, MD; Patrick Dunphy, PA; John Mohs, MD; Marc O' Cleireachin, MD; Christopher Percy, MD; Patrick Shanley, PA and Johnathan Eck, MD.

6. Reports

A. Licensing Manager

- Approval of Medical Schools Deemed "equivalent to a regionally accredited US Medical School.

B. Board Attorney-For Review

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.

7. ACTIONS RELATED TO EXECUTIVE SESSION

Complaint Committee Reports A: Licensing and Applicants

Committee A

Recommendation was made by Dr. Reidy to **CLOSE** the following cases, 2020-A-155 and 2021-A-116; **YES:** Dr. Beaudette, Dr. Carson, Dr. Spence, Dr. Anderson, Dr. Unverzagt, Ms. Saavedra, PA Johnson, and Dr. Scoggins. **RECUSED:** Dr. Jenkusky and Dr. Reidy. **MOTION CARRIED**

Case #2021-A-052 Recommendation was made by Dr. Reidy to adopt the recommendations of the IPC and refer Physician to CPEP, or comparable program, to obtain a clinical skills competency evaluation, and refer physician for a neuropsychological evaluation. Both assessments need to be obtained within three months. Case will remain open pending receipt of the assessments. **YES** Dr. Beaudette, Dr. Carson, Dr. Spence, Dr. Anderson, Dr. Unverzagt, Ms. Saavedra, PA Johnson, and Dr. Scoggins. **RECUSED:** Dr. Jenkusky and Dr. Reidy. **MOTION CARRIED**

2021-A-152 Recommendation was made by Dr. Reidy to offer Resident Physician a stipulated license requiring mandatory participation in NMHPWP. If resident physician does not accept, a notice of contemplated action will be issued based on, but not limited to, conduct likely to harm the public. **YES:** Dr. Beaudette, Dr. Carson, Dr. Spence, Dr. Anderson, Dr. Unverzagt, Ms. Saavedra, PA Johnson, and Dr. Scoggins. **RECUSED:** Dr. Jenkusky and Dr. Reidy. **MOTION CARRIED**

Committee B

Recommendation was made by PA Johnson to **CLOSE** Case No. 2020-B-299 **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra, Dr. Scoggins, and Dr. Reidy. **RECUSED:** Dr. Anderson and PA Johnson. **MOTION CARRIED**

Case #2021-B-049 Recommendation was made by PA Johnson offering the physician applicant the chance to

withdraw his application while under investigation or a notice of contemplated action will be issued to deny licensure based on, but not limited to, adverse licensure action in another state and conduct unbecoming. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Unverzagt Ms. Saavedra, Dr. Scoggins, and Dr. Reidy. **RECUSED:** Dr. Anderson and PA Johnson. **MOTION CARRIED**

Case #2021-B-162 Recommendation was made by PA Johnson offering Applicant the chance to withdraw her application while under investigation or a notice of contemplated action will be issued to deny licensure based on, but not limited to, failure to furnish the Board with information requested by the Board. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra, Dr. Scoggins, and Dr. Reidy. **RECUSED:** Dr. Anderson and PA Johnson. **MOTION CARRIED**

Case #2021-B-195 Recommendation was made by PA Johnson offering physician applicant the chance to withdraw his application while under investigation. If physician applicant does not accept, a notice of contemplated action to deny licensure will be issued based on, but not limited to, adverse licensure action in another state, conduct unbecoming, and dishonesty. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra, Dr. Scoggins, and Dr. Reidy. **RECUSED:** Dr. Anderson and PA Johnson. **MOTION CARRIED**

Committee C

Recommendation was made by Dr. Carson to **CLOSE** Case No. 2020-C-062 **YES:** Dr. Beaudette, Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt, Ms. Saavedra, PA Johnson, and Dr. Reidy. **RECUSED:** Dr. Carson and Dr. Scoggins. **MOTION CARRIED**

Case #2020-C-330 Recommendation was made by Dr. Carson to close this case with an advisory letter recommending that he maintain compliance with his action plan to avoid future complaints. **YES:** Dr. Beaudette, Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt, Ms. Saavedra, PA Johnson, and Dr. Reidy. **RECUSED:** Dr. Carson and Dr. Scoggins. **MOTION CARRIED**

Case #2020-C-130- Tabled

Case #2020-C-288 Recommendation was made by Dr. Carson to issue a notice of contemplated action based on, but not limited to, sexual contact with a patient. Notification will be sent to the Massage Therapy Board and Attorney General's Office since licensee is also licensed as a massage therapist. **YES:** Dr. Beaudette, Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt, Ms. Saavedra, PA Johnson, and Dr. Reidy. **RECUSED:** Dr. Carson and Dr. Scoggins. **MOTION CARRIED**

Committee D

Case #2021-D-128 Recommendation was made by Dr. Unverzagt to close this case with an advisory letter reminding physician about the Board's reporting requirements and assessing physician \$150 in costs. **YES:** Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Anderson, Ms. Saavedra, PA Johnson, Dr. Scoggins, and Dr. Reidy. **RECUSED:** Dr. Unverzagt and Dr. Beaudette. **MOTION CARRIED**

Case #2021-D-134 Recommendation was made by Dr. Unverzagt to close this case with an advisory letter to both complainant and physician reminding them about their obligation to maintain professionalism at all times. **YES:** Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Anderson, Ms. Saavedra, PA Johnson, Dr. Scoggins, and Dr. Reidy. **RECUSED:** Dr. Unverzagt and Dr. Beaudette. **MOTION CARRIED**

Case #2021-D-130 Recommendation was made by Dr. Unverzagt offering physician the chance to surrender his license while under investigation or the Board will issue a notice of contemplated action based on, but not limited to, adverse licensure action in another state; failure to report adverse action; and conduct unbecoming.

YES: Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Anderson, Ms. Saavedra, PA Johnson, Dr. Scoggins, and Dr. Reidy. **RECUSED:** Dr. Unverzagt and Dr. Beaudette. **MOTION CARRIED**

Case #2021-D-165 Recommendation was made by Dr. Unverzagt to offer PA an Agreed Order with the issuance of a censure and requiring payment of a fine in the amount of \$2,000. If PA does not agree, a notice of contemplated action will be issued based on, but not limited to, conduct unbecoming and failure to report an arrest. **YES:** Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Anderson, Ms. Saavedra, PA Johnson, Dr. Scoggins, and Dr. Reidy. **RECUSED:** Dr. Unverzagt and Dr. Beaudette. **MOTION CARRIED**

Case #2021-D-183 Recommendation was made by Dr. Unverzagt to offer physician the chance to voluntarily surrender his license or the Board will issue a notice of contemplated action based on, but not limited to, habitual/excessive use of alcohol or substances, conduct likely to harm and incompetency to practice. **YES:** Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Anderson, Ms. Saavedra, PA Johnson, Dr. Scoggins, and Dr. Reidy. **RECUSED:** Dr. Unverzagt and Dr. Beaudette. **MOTION CARRIED**

Case #2021-D-193 Recommendation was made by Dr. Unverzagt offering physician a stipulated license requiring mandatory participation in NMHPWP, or 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, habitual/excessive use of alcohol or substances and access \$450 in costs for misrepresentation on application. **YES:** Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Anderson, Ms. Saavedra, PA Johnson, Dr. Scoggins, and Dr. Reidy. **RECUSED:** Dr. Unverzagt and Dr. Beaudette. **MOTION CARRIED**

Committee E

Recommendation was made by Ms. Saavedra to **CLOSE** the following cases 2020-E-317 and 2021-E-118 **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Anderson, Dr. Unverzagt, PA Johnson, Dr. Scoggins, and Dr. Reidy. **RECUSED:** Dr. Spence and Ms. Saavedra. **MOTION CARRIED**

Case #2020-E-326 Recommendation was made by Ms. Saavedra to close this case with no action. Report complainant to Board of Pharmacy over the violation of her inappropriately accessing the PMP on her son. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Anderson, Dr. Unverzagt, PA Johnson, Dr. Scoggins, and Dr. Reidy. **RECUSED:** Dr. Spence and Ms. Saavedra. **MOTION CARRIED**

Case #2020-E-187 Recommendation was made by Ms. Saavedra to close this case with an advisory letter regarding proper workup on patients and reminding physician the importance of communication with both patients and their family members. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Anderson, Dr. Unverzagt, PA Johnson, Dr. Scoggins, and Dr. Reidy. **RECUSED:** Dr. Spence and Ms. Saavedra. **MOTION CARRIED**

Case #2020-E-196 Recommendation was made by Ms. Saavedra to offer physician applicant a stipulated license requiring mandatory participation in the NMHPWP with an advisory letter reminding physician applicant about disclosing complete information on an application and assessing \$750 in costs. If physician applicant does not accept, applicant may withdraw his licensure 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 an application. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Anderson, Dr. Unverzagt, PA Johnson, Dr. Scoggins, and Dr. Reidy. **RECUSED:** Dr. Spence and Ms. Saavedra. **MOTION CARRIED**

8. Compliance Request/Actions

Miles Nelson, MD-Request to be released from stipulation.

MOTION was made by Ms. Saavedra to release Dr. Nelson from stipulation and issue an unrestricted license. **SECONDED** by Dr. Jenkusky **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra, PA Johnson, Dr. Scoggins, and Dr. Reidy. **RECUSED:** Dr. Anderson. **MOTION CARRIED**

Marc O’Cleireachin, MD Request to be released from stipulation.

MOTION was made by Dr. Jenkusky to release Dr. O’Cleireachin from stipulation and issue an unrestricted license. **SECONDED:** Dr. Unverzagt. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt, Ms. Saavedra, PA Johnson, Dr. Scoggins, and Dr. Reidy. **MOTION CARRIED**

9. Licensing Issues, New Applicants/Reinstatements

IMO Luis Cisneros, M.D., Motion for Entry of Default Order (Case No. 2021-017)
No action taken

IMO Luis Cisneros, M.D., Approval of Proposed Agreed Order (Case No. 2021-017)

MOTION was made by Dr. Jenkusky to accept the Proposed Agreed Order. **SECONDED** by Dr. Reidy. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt, Ms. Saavedra, PA Johnson, Dr. Scoggins, and Dr. Reidy. **MOTION CARRIED**

IMO Aiden Pancer, M.D., Request for approval of non-approved medical school

MOTION was made by Dr. Unverzagt to deny Dr. Pancer’s request. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt, Ms. Saavedra, PA Johnson, Dr. Scoggins, and Dr. Reidy. **MOTION CARRIED**

10. Reports continued

C. Executive Director

Ms. Frank requested that the Board reinstate the Federal Emergency License until the Federal Emergency has been lifted by the federal government.

After discussion, the following motion was made.

MOTION was made by Dr. Reidy to reinstate the Federal Emergency License for the duration of the Pandemic and until the Federal Government lifts the Federal Emergency. **SECONDED** by Dr. Jenkusky **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt, Ms. Saavedra, PA Johnson, Dr. Scoggins, and Dr. Reidy. **MOTION CARRIED**

D. Finance

FY21 Financial Audit

- The FY21 Financial Audit was conducted the week of October 4-22, 2021.
- The exit audit conference was held on October 26, 2021. In attendance, via zoom, were Thad Porch (the auditor), Dr. Beaudette, Executive Director, Frank and Ms. Mascarenas.
- The audit has not been released by the State Auditor’s office at this time.
- At the next interim or regular board meeting the Audit Firm, Porch & Associates, LLC (Thad Porch) who conducted the Financial Audit will present the FY21 audit to the board. The Board will need to vote to approve the audit at that time.

FY22 Budget/Revenue Status

- Report the FY22 Budget/Revenue Status ending September 30, 2021.
The Budget and Revenue Status ending September 30, 2021 are as follows:
 - ✓ From July 1, 2021 through September 30, 2021 expenditures total **\$468,086 (or 18.39%)** of budgeted expenditures (Opbud \$2,545,100);
 - ✓ From July 1, 2021 through September 30, 2021 the agency collected revenues in the amount of **\$329,775 (or 13.1%)** of budgeted revenues of **\$2,515,100 (\$30,000 FB budgeted in FY22)**.
 - ✓ The Fund Balance on June 30, 2021 is **\$2,336,745**. The cash balance as of November 2, 2021 is **\$2,078,112**.
- For your reference you received the FY22 Statistics Summary that reflects the application/renewal and other fees that makes up the total revenues collected in FY22 beginning on 7/1/21 through 9/30/2021 in the amount of \$329,775.

E. Chair

Dr. Beaudette stated that NMMB's next goal is to organize a non-formal retreat.

11. Rule Hearing

Tabled

12. New Business

Adopt Proposed Board Meeting Dates-Calendar Year 2022

The Board took a moment to review and discuss the proposed calendar. After discussion, the following motion was made

MOTION was made by Dr. Jenkusky to adopt the 2022 full Board meeting and Interim meeting dates with the following Changes, move interim board meetings to Wednesdays. The Meeting dates are as follows, January 12, 2022 (Interim); March 3-4, 2022 (Full Meeting); May 4, 2022 (Interim); June 2-3, 2022 (Full Meeting); July 20, 2022 (Interim); August 25-26, 2022 (Full Meeting); November 2, 2022 (Interim) and December 8-9, 2022 (Full Meeting) **SECONDED** by Dr. Carson. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt, Ms. Saavedra, PA Johnson, Dr. Scoggins, and Dr. Reidy. **MOTION CARRIED**

Rule Hearing Approval

16.10.2- Criminal convictions; exclusion from licensure; disclosure requirement

Motion was made by Dr. Jenkusky to accept the proposed rule for rule hearing. **SECONDED** by Dr. Beaudette. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt, Ms. Saavedra, PA Johnson, Dr. Scoggins, and Reidy. **MOTION CARRIED**

16.10.10- Reporting of Settlements, Judgements, Adverse Actions and Credentialing Discrepancies

Motion was made by Dr. Beaudette to accept the proposed rule for rule hearing. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt, Ms. Saavedra, PA Johnson, Dr. Scoggins, and Reidy. **MOTION CARRIED**

16.10.11- Physicians Supervising Pharmacist Clinicians

Motion was made by Dr. Unverzagt to accept the proposed rule for rule hearing with additional requirements for duty to report when practicing outside the Board approved protocol. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt, Ms. Saavedra, PA Johnson, Dr. Scoggins, and Reidy. **MOTION CARRIED**

13. Old Business

Dr. Unverzagt proposed that the Board recognize physicians making a difference in New Mexico by recognizing them at Board meetings and sending them positive letters.

After discussion the Board agreed this would be a positive outlook for NMMB and Dr. Unverzagt nominated Nestor Sosa, MD and Leslie Hayes, MD to receive the first letters of positivity from the Board.

14. Adjourn

There being no further business before the Board, Dr. Beaudette adjourned the meeting at 3:50 pm.

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

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

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