

NEW MEXICO MEDICAL BOARD
Board Meeting
February 23-24, 2023
MINUTES

MEETING MADE PUBLIC VIA ZOOM AND TELECONFERENCE

Members Present: Karen Carson, MD, Chair
Eric Anderson, MD, Vice Chair
Steve Jenkusky, MD, Secretary Treasurer
Mark Unverzagt, MD
Kristin Reidy, DO
Kathy Johnson, PA
Peter Beaudette, MD but attended via Video Conferencing on February 24

Video Conferencing: Bradley Scoggins, DO
Eileen Barrett, MD
Buffie Saavedra, Public Member but Present on February 24

Others Present: Sondra Frank, Esquire, Executive Director
Amanda Quintana, Compliance Manager / PIO
Debbie Dieterich, Investigations Manager
Monique Parks, Licensing Manager
Lori Arevalo, Compliance Coordinator Via Zoom
Ann Pacheco, Administrative Assistant

CALL TO ORDER / ROLL CALL

1. Dr. Carson, after establishing the presence of a quorum, called the February 23-24, 2023, Board Meeting of the New Mexico Medical Board to order at 8:30 AM, roll call was completed. **PRESENT** Dr. Carson, Dr. Beaudette, Dr. Jenkusky, Dr. Scoggins, Dr. Reidy, Dr. Unverzagt, PA Johnson, Dr. Anderson, Ms. Saavedra, Dr. Barrett

2. **APPROVAL OF AGENDA**

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

3. **APPROVAL OF MINUTES**

MOTION was made by Dr. Carson to approve the minutes from the January 11, 2023, Interim Board meeting. **SECONDED** by Dr. Beaudette **YES:** Dr. Beaudette, Dr. Jenkusky, Dr. Reidy, Dr. Unverzagt, Dr. Carson, PA Johnson, Dr. Scoggins, Ms. Saavedra and Dr. Anderson **ABSENT:** Dr. Barrett **MOTION CARRIED.**

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

MOTION was made by Dr. Carson 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. Unverzagt. **YES:** Dr. Beaudette, Dr. Jenkusky, Dr. Reidy, Dr. Unverzagt, Dr. Carson, PA Johnson, Dr. Scoggins, Ms. Saavedra and Dr. Anderson **ABSENT:** Dr. Barrett **MOTION CARRIED.**

5. HPWP Report

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

6. Informal Compliance Interviews

Flanagan Whitsitt, PA, Jason Trujillo, M.D., Clare Pultz, PA, Jeffrey Neidhart, M.D., Terry Hansen, M.D., Curtis Quintana, PA, Danielle Hewey, PA and Jennifer Bendokas, PA were interviewed by the Board.

OPEN SESSION

The Board returned to open session. Dr. Carson 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 A:

RECOMMENDATION was made by Dr. Jenkusky to **CLOSE** the following cases: 2021-A-082, 2021-A-160, 2021-A-174, 2021-A-198, 2021-A-265, 2022-A-154 **YES**, Dr. Beaudette, Dr. Reidy, Dr. Unverzagt, Dr. Carson, PA. Johnson, Ms. Saavedra and Dr. Scoggins and Dr. Anderson **RECUSED**: Dr. Barrett and Dr. Jenkusky **MOTON CARRIED**.

Case # 2021-A-086 RECOMMENDATION was made by Dr. Jenkusky to **CLOSE** this case with an advisory letter to physician recommending improved patient communications. **YES**, Dr. Beaudette, Dr. Reidy, Dr. Unverzagt, Dr. Carson, PA. Johnson, Ms. Saavedra and Dr. Scoggins and Dr. Anderson **RECUSED**: Dr. Barrett and Dr. Jenkusky **MOTON CARRIED**.

Case # 2021-A-087 RECOMMENDATION was made by Dr. Jenkusky to **CLOSE** this case with an advisory letter cautioning physician about the use of social media to communicate with patients. **YES**, Dr. Beaudette, Dr. Reidy, Dr. Unverzagt, Dr. Carson, PA. Johnson, Ms. Saavedra and Dr. Scoggins and Dr. Anderson **RECUSED**: Dr. Barrett and Dr. Jenkusky **MOTON CARRIED**.

Case # 2022-A-082 RECOMMENDATION was made by Dr. Jenkusky to **CLOSE** this case with an advisory letter cautioning physician about violating the ethics rule for self treatment and treatment of family members. **YES**, Dr. Beaudette, Dr. Reidy, Dr. Unverzagt, Dr. Carson, PA. Johnson, Ms. Saavedra and Dr. Scoggins and Dr. Anderson **RECUSED**: Dr. Barrett and Dr. Jenkusky **MOTON CARRIED**.

Complaint Committee B:

RECOMMENDATION was made by Dr. Anderson to **CLOSE** the following cases: 2021-B-200, 2021-B-266, 2021-B-278, 2021-B-280, 2022-B-037, 2022-B-153 **YES**, Dr. Jenkusky, Dr. Reidy, Dr. Unverzagt, Dr. Carson, PA Johnson, Dr. Scoggins, Dr. Barrett and Ms. Saavedra. **RECUSED**, Dr. Beaudette and Dr. Anderson. **MOTON CARRIED**.

Case # 2021-B-072 RECOMMENDATION was made by Dr. Anderson **CLOSE** this case with an advisory letter reminding physician about NM law requiring death certificates to be signed within 48 hours of a patient's death. **YES**, Dr. Jenkusky, Dr. Reidy, Dr. Unverzagt, Dr. Carson, PA Johnson, Dr. Scoggins, Dr. Barrett and Ms. Saavedra. **RECUSED**, Dr. Beaudette and Dr. Anderson. **MOTON CARRIED**.

Case # 2021-B-163 RECOMMENDATION was made by Dr. Anderson to close this case with an advisory letter reminding physician about the Board's reporting regulation requirement and assessing \$150 in costs. **YES**, Dr. Jenkusky, Dr. Reidy, Dr. Unverzagt, Dr. Carson, PA Johnson, Dr. Scoggins, Dr. Barrett and Ms. Saavedra. **RECUSED**, Dr. Beaudette and Dr. Anderson. **MOTON CARRIED**.

Case # 2022-B-132 RECOMMENDATION was made by Dr. Anderson to close this case with an advisory letter reminding physician about the Board's reporting regulation requirement and assessing \$150 in costs. **YES**, Dr. Jenkusky, Dr. Reidy, Dr. Unverzagt, Dr. Carson, PA Johnson, Dr. Scoggins, Dr. Barrett and Ms. Saavedra. **RECUSED**, Dr. Beaudette and Dr. Anderson. **MOTON CARRIED**.

Complaint Committee C:

RECOMMENDATION was made by Dr. Unverzagt to **CLOSE** the following cases: 2021-C-169, 2022-C-051, 2022-C-060, 2022-C-089 **YES**, Dr. Jenkusky, Dr. Barrett, Dr. Reidy, PA Johnson, Dr. Scoggins, Dr. Beaudette, Dr. Anderson and Ms. Saavedra. **RECUSED**, Dr. Carson and Dr. Unverzagt. **MOTON CARRIED**.

Case# 2021-C-149 RECOMMENDATION was made by Dr. Unverzagt to offer physician the chance to surrender his license along with the payment of a fine totaling 10% of what licensee owes the federal government, which is \$250,963.10, and investigative costs. If this offer is not accepted the committee recommends issuance of a Notice of Contemplated Action based on, but not limited to, obtaining a fee by fraud or misrepresentation, conduct likely to deceive the public, conduct unbecoming and making a false statement in a document connected with the practice of medicine. **YES**, Dr. Jenkusky, Dr. Barrett, Dr. Reidy, PA Johnson, Dr. Scoggins, Dr. Beaudette, Dr. Anderson and Ms. Saavedra. **RECUSED**, Dr. Carson and Dr. Unverzagt. **MOTON CARRIED**.

Complaint Committee D:

RECOMMENDATION was made by PA Johnson to **CLOSE** the following cases: 2021-D-106, 2021-D-187, 2021-D-219, 2021-D-227, 2021-D-261, 2021-D-277, 2022-D-029 **YES**, Dr. Jenkusky, Dr. Barrett, Dr. Reidy, Dr. Carson, Dr. Unverzagt, Ms. Saavedra, Dr. Anderson and Dr. Beaudette. **RECUSED**: PA Johnson and Dr. Scoggins **MOTON CARRIED**.

Case # 2022-D-069 RECOMMENDATION was made by PA Johnson to offer physician an agreed order that prohibits physician from prescribing compound medications in New Mexico for a minimum period of two years after which time he can petition the Board to release him from that restriction; requiring him to appear before the Board on a quarterly basis; requiring successful completion of the Probe Ethics Course at CPEP within 90 days; and issuance of a reprimand. If physician does not accept, a notice of contemplated action will be issued based on, but not limited to, conviction of a misdemeanor within the practice of medicine, failure to report an arrest and conduct unbecoming. **YES**, Dr. Jenkusky, Dr. Barrett, Dr. Reidy, Dr. Carson, Dr. Unverzagt, Ms. Saavedra, Dr. Anderson and Dr. Beaudette. **RECUSED**: PA Johnson and Dr. Scoggins **MOTON CARRIED**.

Case # 2022-D-084 RECOMMENDATION was made by PA Johnson to offer PA an agreed order requiring him to place his license on inactive status pending an evaluation by the Professional Renewal Center in Kansas with further recommendations to be made by the Board after receipt of those results. If PA does not accept, a summary suspension will be issued based upon imminent danger to the public along with a notice of contemplated action based upon, but not limited to, sexual contact with a patient, interaction with a patient that could adversely affect patient care, conduct likely to harm, and conduct unbecoming. **YES**, Dr. Jenkusky, Dr. Barrett, Dr. Reidy, Dr. Carson, Dr. Unverzagt, Ms. Saveedra, Dr. Anderson and Dr. Beaudette. **RECUSED**: PA Johnson and Dr. Scoggins **MOTON CARRIED**.

Complaint Committee E:

RECOMMENDATION was made by Dr. Reidy to **CLOSE** the following cases: 2021-E-155, 2021-E-217, 2021-E-228, 2021-E-279, **YES**, Dr. Jenkusky, Dr. Barrett, Dr. Carson, Dr. Unverzagt, Dr. Scoggins, Dr. Beaudette, PA Johnson and Dr. Anderson **RECUSED**: Dr. Reidy and Ms. Saveedra **MOTON CARRIED**.

Case 2021-E-133 RECOMMENDATION was made by Dr. Reidy to **CLOSE** the following case with an advisory letter cautioning physician about his interactions and recommending a patient interaction course. **YES**, Dr. Jenkusky, Dr. Barrett, Dr. Carson, Dr. Unverzagt, Dr. Scoggins, Dr. Beaudette, PA Johnson and Dr. Anderson **RECUSED**: Dr. Reidy and Ms. Saveedra **MOTON CARRIED**

Case 2021-E-206 RECOMMENDATION was made by Dr. Reidy to **CLOSE** the following case with an advisory letter suggesting appropriate oversight while Resident Physicians are in clinic. **YES**, Dr. Jenkusky, Dr. Barrett, Dr. Carson, Dr. Unverzagt, Dr. Scoggins, Dr. Beaudette, PA Johnson and Dr. Anderson **RECUSED**: Dr. Reidy and Ms. Saveedra **MOTON CARRIED**

Case 2022-E-030 RECOMMENDATION was made by Dr. Reidy to **CLOSE** the following case with an advisory letter recommending clearer communication with patients by office staff. **YES**, Dr. Jenkusky, Dr. Barrett, Dr. Carson, Dr. Unverzagt, Dr. Scoggins, Dr. Beaudette, PA Johnson and Dr. Anderson **RECUSED**: Dr. Reidy and Ms. Saveedra **MOTON CARRIED**

Case 2022-E-027 RECOMMENDATION was made by Dr. Reidy to **CLOSE** the following case with an advisory letter recommending clearer communication with patients by office staff. **YES**, Dr. Jenkusky, Dr. Barrett, Dr. Carson, Dr. Unverzagt, Dr. Scoggins, Dr. Beaudette, PA Johnson and Dr. Anderson **RECUSED**: Dr. Reidy and Ms. Saveedra **MOTON CARRIED**

OPEN SESSION

The Board returned to open session. Dr. Carson stated for the record that the matters discussed in executive session were limited only to those specified in the motion for closure.

8. Licensing Requests and Actions, New Applicants/Reinstatements

IMO: Malathy Sundaram, MD – Case #2022-032 – Motion for Entry of Default Order.

Dr. Sundaram appeared in person and addressed the Board on her failure to respond to the Motion prior to today.

MOTION was made by Dr. Carson to approve Prosecutor’s Motion for Entry of Default Order. **Seconded** Dr. Jenkusky **YES**, Dr. Jenkusky, Dr. Barrett, Dr. Carson, Dr. Unverzagt, Dr. Scoggins, Dr. Reidy, Ms. Saveedra, PA Johnson, Dr. Anderson and Dr. Beaudette. **MOTON CARRIED.**

MOTION was made by Dr. Carson to deny licensure. **Seconded** Dr. Jenkusky **YES**, Dr. Jenkusky, Dr. Barrett, Dr. Carson, Dr. Unverzagt, Dr. Scoggins, Dr. Reidy, Ms. Saveedra, PA Johnson, Dr. Anderson and Dr. Beaudette. **MOTON CARRIED.**

9. Reports-

A. Executive Director

- Executive Director Position Interviews
 - 2:00 p.m. – Ami Jaeger, MA, JD
 - 3:00 p.m. – Lou Ann Branch, PharmD, JD, Esquire (via zoom)
 - 4:00 p.m. – Michael Nunez, Esq.
- Appointment of the Interim Executive Director – The Board appointed Amanda Quintana as Interim Executive Director on 02-24-23
- Following interviews for the Executive Director position, the Board ranked the candidates for the Executive Director position as follows: First Choice - Ami Jaeger, MA, JD; Second Choice - Michael Nunez, Esq.; and Third Choice - Lou Ann Branch, PharmD, JD

B. Chair Report – Legislation.

- Dr. Carson discussed several bills for which the Legislature has requested Fiscal Impact Reports from the Board. Additionally, Dr. Carson updated the Board on the Compact Legislation that has not moved out of Committee.

C. Medical Director

- **Telemedicine Rule** — Dr. Jenkusky reminded the Board that when we put the proposed Telemedicine rules out for public comment, the Board received a lot of feedback and quite a bit of negative feedback. Dr. Jenkusky stated that he will continue to work on the rules, in the meantime the Board will rely on the current telemedicine rule, and he will come back at a later date with another proposal.

D. Licensing Manager – Monique Parks, Licensing Manager spoke briefly about the process for allowing out of state residency program students do residency rotations in New Mexico. Ms. Parks briefed the Board about the Brooks Army Medical Center qualifications to be approved.

- **Motion for approval of out of state residency program – Brooks Army Medical Center**
MOTION was made by Dr. Carson to approve. **Seconded** Dr. Anderson **YES**, Dr. Jenkusky, Dr. Barrett, Dr. Carson, Dr. Unverzagt, Dr. Scoggins, Dr. Reidy, Ms. Saveedra, PA Johnson, Dr. Beaudette and Dr. Anderson.
MOTON CARRIED.

E. Finance

- Ms. Griego reported to the Board, the following items.

FY23 Budget/Revenue Status

- Report the FY23 Budget/Revenue Status ending June 30, 2023.
The Budget and Revenue Status ending June 30, 2023 are as follows:
 - ✓ From July 1, 2022 through June 30, 2023 expenditures total **\$1,385,241 (or 49%)** of budgeted expenditures (Opbud \$2,780,700).
 - ✓ From July 1, 2022 through June 30, 2023 the agency collected revenues in the amount of **\$668,200 (or 25.8%)** of budgeted revenues of **\$2,580,700**.
 - ✓ The Fund Balance on June 30, 2022 is **\$200,000**. The cash balance as of June 30, 2023 is **\$2,780,700**.

The Statistics Summary for FY23 is provided for the board’s information

IT Appropriation – Licensing Database

- The IT Multi-year appropriation for the Licensing Database budgeted in FY22 is \$1,811,200 utilizing fund balance. As of January 31, 2023 the agency expended \$745,289 and encumbered (committed) \$443,884 of the appropriation for a total of \$1,189,173 expended and encumbered.

FRIDAY, December 9, 2022 – 8:30 a.m.

MOTION was made by Dr. Carson 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. **SECOND** by Dr. Jenkusky. **YES**, Dr. Jenkusky, Dr. Barrett, Dr. Carson, Dr. Unverzagt, Dr. Scoggins, Dr. Reidy, Ms. Saveedra, PA Johnson, Dr. Anderson and Dr. Beaudette. **MOTON CARRIED.**

10. Informal Interviews Continued [portions may be closed*]

The Board interviewed Jon Fowler, MD, Jeffery Fritz, MD, Stephen Coleman, MD, Glenn Vogelsang, MD and Joanna Teufel, M.D.

OPEN SESSION

The Board returned to open session. Dr. Carson 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 [portions may be closed*] [AQ]

Jon Fowler, MD- Request to be released from stipulation.

MOTION was made by Dr. Jenkusky to release Dr. Fowler from stipulation and be given an unrestricted license. **SECONDED:** Dr. Reidy **YES**, Dr. Jenkusky, Dr. Barrett, Dr. Carson, Dr. Unverzagt, Dr. Scoggins, Dr. Reidy, Ms. Saveedra, PA Johnson, Dr. Anderson and Dr. Beaudette. **MOTON CARRIED.**

Jeffery Fritz, MD – Request to be released from stipulation.

MOTION was made by Dr. Jenkusky to release Dr. Fritz from stipulation and be given an unrestricted license. **SECONDED:** Dr. Barrett. **YES**, Dr. Jenkusky, Dr. Barrett, Dr. Carson, Dr. Unverzagt, Dr. Scoggins, Dr. Reidy, Ms. Saveedra, PA Johnson, Dr. Anderson and Dr. Beaudette. **MOTON CARRIED.**

Glenn Vogelsang, MD- Request to be released from stipulation.

MOTION was made by PA Johnson to grant Dr. Vogelsang's request to be released from stipulation. **SECONDED** by Dr. Carson. **YES**, Dr. Jenkusky, Dr. Barrett, Dr. Carson, Dr. Unverzagt, Dr. Scoggins, Dr. Reidy, Ms. Saveedra, PA Johnson, Dr. Anderson and Dr. Beaudette. **MOTON CARRIED.**

Stephen Rath, MD – Request to be released from stipulation. Tabled

12. New Business

- **FSMB – Physician Discipline and the Role of CME on Reducing the Risk of Recidivism.**
Aaron Young, Liz Wenghofer and Katy Arnhart and Xiaome Pei spoke on behalf of FSMB and gave a Power Point presentation after which there was a discussion with the Board.

13. Old Business

- **Safe Harbor Subcommittee Report**

The Safe Harbor Subcommittee came to the decision to make the following changes to the Health Section of the NMMB License Application:

- 1) To remove impairment question 15.
- 2) To add "In the last five years, have you been mandatorily enrolled in a Physician Health Program or similar monitoring program or have you been told that to maintain your license you must enroll in a PHP?"
- 3) To add this statement: The New Mexico Medical Board encourages all applicants and licensees to properly care for their physical and behavioral health needs, for both their own wellbeing and that of their patients. The independent New Mexico Health Professional Wellness Program is available to provide assistance on a confidential, voluntary basis (<http://nmhpwp.com>).
- 4) consider changing heading for this section to remove the word "impairment" possibly make it Ethics/Health?

MOTION was made by Dr. Jenkusky to approve the suggested changes. **SECONDED** by Dr. Carson. **YES**, Dr. Jenkusky, Dr. Barrett, Dr. Carson, Dr. Unverzagt, Dr. Scoggins, Dr. Reidy, Ms. Saveedra, PA Johnson, Dr. Anderson and Dr. Beaudette. **MOTON CARRIED.**

Adjourn

There being no further business before the Board, Dr. Carson adjourned the meeting at 12:24 pm.

SUBMITTED BY: _____
Amanda Quintana, Interim Executive Director

DATE: _____

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

DATE: _____

APPROVED BY: _____
Eric Anderson, M.D., Vice Chair

DATE: _____