

NEW MEXICO MEDICAL BOARD
Interim Board Meeting – April 5, 2023
2055 S. Pacheco Street, Suite 400
Santa Fe, NM 87505

MINUTES

MEETING MADE PUBLIC VIA ZOOM AND TELECONFERENCE

Video Conferencing: Karen Carson, MD, Chair
Eric Anderson, MD, Vice Chair
Steve Jenkusky, MD, Secretary Treasurer
Mark Unverzagt, MD
Kristin Reidy, DO
Eileen Barrett, MD
Peter Beaudette, MD
Kathy Johnson, PA
Bradley Scoggins, DO

Others Present: Amanda Quintana, Interim Executive Director
Debbie Dieterich, Investigations Manager
Monique Parks, Licensing Manager
Michael Nunez, Administrative Prosecutor
Lori Arevalo, Compliance Coordinator
David Dominguez-Maez, Investigator

Excused: Buffie Saavedra, Public Member

1. CALL TO ORDER / ROLL CALL

Dr. Carson, after establishing the presence of a quorum, called the April 5, 2023, Board Meeting of the New Mexico Medical Board to order at 3:00 pm, roll call was completed.

2. APPROVAL OF AGENDA

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

3. APPROVAL OF MINUTES

MOTION was made by Jenkusky to approve the minutes from the February 23– 24, 2023, Board meeting. **SECONDED** by Dr. Carson. **YES:** Dr. Jenkusky, Dr. Barrett, Dr. Unverzagt, Dr. Carson, Dr. Beaudette, PA Johnson, Dr. Scoggins, Dr. Reidy. **ABSENT:** Ms. Saavedra. **MOTION CARRIED.**

MOTION was made by Carson to approve the minutes from the March 22, 2023, Board meeting. **SECONDED** by Jenkusky. **YES:** Dr. Jenkusky, Dr. Barrett, Dr. Unverzagt, Dr. Carson, Dr. Beaudette, PA Johnson, Dr. Scoggins, Dr. Reidy. **ABSENT:** Ms. Saavedra. **MOTION CARRIED.**

4. **EXECUTIVE SESSION: Complaint Committee Reports, Licensing Requests, Actions.**

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. Johnson. **YES:** Dr. Jenkusky, Dr. Barrett, Dr. Unverzagt, Dr. Carson, Dr. Beaudette, PA Johnson, Dr. Scoggins, Dr. Reidy. **ABSENT:** Ms. Saavedra. **MOTION 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.

5. **COMPLAINT COMMITTEE REPORTS**

Committee A: [SJ]

Case#2022-A-146 Recommendation was made by Dr. Jenkusky to offer physician an Agreed Order with issuance of a reprimand, payment of a fine in the amount of \$1,000, and requiring courses in ethics and medical record keeping to be taken at CPEP or other comparable program within 6 months. If physician does not accept offer, a notice of contemplated action will be issued based on, but not limited to, adverse action in another state, conduct unbecoming, ethical violations and dishonesty on his final application. **YES:** Dr. Carson, Dr. Barrett, Dr. Unverzagt, Dr. Beaudette, PA Johnson, Dr. Reidy, Dr. Anderson and Dr. Scoggins. **RECUSED:** Dr. Jenkusky. **ABSENT:** Ms. Saavedra. **MOTION CARRIED.**

Case#2022-A-010 Recommendation was made by Dr. Jenkusky to offer physician applicant a stipulated license requiring mandatory participation in NMHPWP. If physician 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. **YES:** Dr. Carson, Dr. Barrett, Dr. Unverzagt, Dr. Beaudette, PA Johnson, Dr. Reidy, Dr. Anderson and Dr. Scoggins. **RECUSED:** Dr. Jenkusky. **ABSENT:** Ms. Saavedra. **MOTION CARRIED.**

Case#2022-A-012 Recommendation was made by Dr. Jenkusky to offer Naprapath issuance of a license to practice under an Agreed Order with issuance of a reprimand and payment of a fine in the amount of \$1,000. If Naprapath does not accept, a notice of contemplated action to deny licensure will be issued based on, but not limited to, unlicensed practice. **YES:** Dr. Carson, Dr. Barrett, Dr. Unverzagt, Dr. Beaudette, PA Johnson, Dr. Reidy, Dr. Anderson and Dr. Scoggins. **RECUSED:** Dr. Jenkusky. **ABSENT:** Ms. Saavedra. **MOTION CARRIED.**

Committee C: [MU, KC]

Case#2022-C-182 Recommendation was made by Dr. Carson to offer physician an Agreed Order requiring issuance of a reprimand and payment of a fine in the amount of \$2,000, along with a referral to obtain a competency skills evaluation at CPEP, or comparable program, within 90 days. Board maintains discretion after reviewing evaluation to impose further stipulations, if applicable. If physician does not accept offer, a notice of contemplated action will be issued based on, but not limited to, making false or misleading statements regarding the skill of the licensee or the efficacy or value of the medicine, treatment or remedy prescribed or administered by the licensee; failure to maintain complete medical records on patients, conduct unbecoming, and repeated negligent acts. **YES:** Dr. Jenkusky, Dr. Barrett, Dr. Beaudette, PA Johnson, Dr. Reidy, Dr. Anderson and Dr. Scoggins. **RECUSED:** Dr. Carson, Dr. Unverzagt. **ABSENT:** Ms. Saavedra. **MOTION CARRIED.**

Case#2022-C-115 Tabled- Moved to May Meeting

Case#2023-C-011 Recommendation was made by Dr. Carson to offer physician applicant a stipulated license requiring mandatory participation in NMHPWP and restriction on practicing in a solo practice in New Mexico. Additionally, physician will pay a fee of \$450 for misrepresentation on an application. If physician applicant does not accept offer, a notice of contemplated action to deny licensure will be issued based on, but not limited to, habitual/excessive use of alcohol or substances and adverse licensure action taken in another state. **YES:** Dr. Jenkusky, Dr. Barrett, Dr. Beaudette, PA Johnson, Dr. Reidy, Dr. Anderson and Dr. Scoggins. **RECUSED:** Dr. Carson, Dr. Unverzagt. **ABSENT:** Ms. Saavedra. **MOTION CARRIED.**

Committee D: [BS]

Case#2022-D-111 Recommendation was made by Dr. Scoggins to offer physician applicant the chance to withdraw his application for licensure while under investigation. If physician applicant does not accept offer, a notice of contemplated action will be issued to deny licensure based on, but not limited to, incompetency to practice. **YES:** Dr. Jenkusky, Dr. Carson, Dr. Unverzagt, Dr. Barrett, Dr. Beaudette, PA Johnson, Dr. Reidy, Dr. Anderson. **RECUSED:** Dr. Scoggins. **ABSENT:** Ms. Saavedra. **MOTION CARRIED.**

6. Licensing Requests and Actions, New Applicants/Reinstatements

IMO: John Smolley, M.D., Case 2022-035– Review and Decision on the Motion for Entry of Default Order.

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

A MOTION was made by Dr. Carson to deny applicant a license to practice medicine in New Mexico. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Jenkusky, Dr. Barrett, Dr. Carson, Dr. Beaudette, PA Johnson, Dr. Anderson, Dr. Unverzagt and Dr. Reidy. **ABSENT:** Ms. Saavedra. **MOTION CARRIED.**

7. Chair Report

Status of HB384 – Dr. Carson updated the Board on the status of the signing of this Bill. The Bill has neither been signed by the Governor nor vetoed at this time. The Board has learned that there has been a lot of pressure from the Hospital Association, who is in support of this Bill. The Board has requested the Governor veto this Bill for reasons set forth in the Board’s letter to the Governor. Reviewing the specific language of the Bill, and from a legal standpoint, it contains certain terms that the Board has the discretion to interpret when drafting rules. There is also some specific language in the Bill that is in conflict with the Medical Practice Act, and which may require legal guidance from the courts.

Background Checks – Dr. Carson alerted the Board that The New Mexico Department of Public Safety (DPS) is tasked with all background checks for the State of New Mexico. DPS has contracted this out to a third party, which has been Gemalto/Thales for the last 10 years. However, as of April 14, 2023, Gemalto/Thales will not process background checks anymore. DPS is now using IDEMIA to complete background checks. The projected start date is May 1, 2023. All applicants who have complete applications that have been approved and are ready for license issuance during the period between April 14 and May 1 will be issued a temporary license. The licensee is required to have their background check completed within 30 days of receiving their temporary license. If the licensee does not have their background check done within 30 days from the issuance of their temporary license, the Board will hold up the issuance of their permanent license until it is completed.

8. Medical Director

Medical Tattooing – Dr. Jenkusky spoke briefly about the Body Art Association that will be coming to speak to the Board at the May 18-19, 2023 Board Meeting. He pointed out the differences between Body Art and Medical Tattooing, whether or not medical tattooing is considered a medical procedure and the difference between when a tattoo artist does the work versus a licensed plastic surgeon. Dr. Jenkusky left the Board with some literature to review on the subject prior to the next Board meeting.

Status of Medical Director Position – Dr. Jenkusky updated the Board on the status of the position. Dr. Jenkusky has been hired by the Board and he is just waiting for the formal offer. The May 18-19, 2023 board meeting will be his last Board meeting as a Board member and he will then become a staff member at the New Mexico Medical Board. There will then be a Board member vacancy to be filled.

9. Safe Harbor Committee

Dr. Jenkusky reminded the Board of their vote in February to amend the Personal Professional Questions on the Board’s applications to remove references to impairment. The amendments have been completed and a memo was sent out to all Board members summarizing the changes, which were approved. These changes will be made to the license and license renewal applications immediately.

10. Adjourn

There being no further business before the Board, Dr. Carson adjourned the meeting at 4:15 p.m.

SUBMITTED BY: _____ DATE: _____
Amanda Quintana, Interim Executive Director

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

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