

NEW MEXICO MEDICAL BOARD
Interim Board Meeting
September 24, 2020 Interim Board Meeting
MINUTES

Members Present: Peter Beaudette, MD, Chair
Steve Jenkusky, MD

Video Conferencing: James Spence, MD
Karen Carson, MD, Vice Chair
Eric Anderson, MD
Mark Unverzagt, MD
Buffie Saaverda, Public Member

Others Present: Sondra Frank, Esquire, Executive Director
Debbie Dieterich, Investigations Manager
Elishia Lucero, Administrative Assistant
Antoinette Griego, Licensing Manager – Via Zoom
Gayle Mascarenas, CFO/HR Manager

1. CALL TO ORDER / ROLL CALL

Dr. Beaudette, after establishing the presence of quorum, called the Interim Board Meeting of the New Mexico Medical Board to order at 4:08pm., roll Call was completed.

2. APPROVAL OF AGENDA

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

3. APPROVAL OF MINUTES

MOTION was made by Dr. Jenkusky to approve the minutes of the August 13-14, 2020 Board Meeting as presented. **SECONDED** by Dr. Anderson **YES:** Dr. Beaudette, Dr. Jenkusky, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **MOTION CARRIED.**

4. Chair Report

Dr. Beaudette informed the Board that it has been brought to his attention that physicians are having difficulties accruing CME during the COVID-19 pandemic. Due to the Pandemic, most courses are canceled and providers are unable to obtain the required number of CME.

Ms. Frank stated that she has the authority to grant an automatic three-month extension to providers who have not met the Boards CME requirements. If providers cannot meet the requirements after an extension has been provided, the Board will have to grant an additional three months.

After discussion, the Board agreed to discuss this matter more formally at the November 19-20, 2020 Board Meeting.

5. Executive Director

NMAAA Request for Formal Support

Marilyn Archambeo, CAA, along with Abbie Moore, CAA, from the New Mexico Academy of Anesthesiologist Assistants (NMAAA) requested that the NMMB offer their support during the 2021 Legislative Session by providing a formal letter support. The first request to the Legislature would be an increase to the supervisory ratios. The current legislation limits the New Mexico CAA's to exclusively

work in Class A counties with a supervisory ratio of 3:1. NMAAA believes that increasing their supervisory ratio to 4:1 would help better serve NM communities. The second request would be to expand their geographic limitations so they do not have to practice exclusively in Class A counties.

After much discussion, the following motion was made.

MOTION was made by Dr. Jenkusky to provide formal written support to NMAAA so they may present their request to the Legislature in 2021. **SECONDED** by Dr. Anderson **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **MOTION CARRIED.**

Disciplinary Rule Change

Ms. Frank informed the Board that the Disciplinary Rules are in the process of being revised and will be presented at their November 19-20, 2020 Board Meeting

Subcommittee Reports

Professional Practice Questions

Ms. Frank informed the Board that a Subcommittee was formed to review and rearrange the professional practice questions. The Professional Practice questions have been revised and are being currently being tested.

Ms. Frank stated that the Questions will be ready for a final vote at the November 19-20, 2020 Board Meeting.

EXECUTIVE SESSION: Complaint Committee Reports / Executive Committee Report / Licensing Issues, New Applicants / Reinstatements

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

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.

ACTIONS RELATED TO EXECUTIVE SESSION

Complaint Committee A

RECOMMENDATION was made by Dr. Jenkusky to **CLOSE** the following cases: 2020-A-104 and 2020-A-148 **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, and Dr. Unverzagt. **RECUSED:** Dr. Jenkusky and Ms. Saavedra. **MOTION CARRIED.**

Case #2018-A-310 RECOMMENDATION was made by Dr. Jenkusky to **CLOSE** the case with an advisory letter cautioning provider about the need to perform a through workup prior to prescribing a psychiatric medication to a patient and reminding physician about the risks of the medication for persons under the age of 25. **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, and Dr. Unverzagt. **RECUSED:** Dr. Jenkusky and Ms. Saavedra. **MOTION CARRIED.**

Case #2020-A-079 RECOMMENDATION was made by Dr. Jenkusky to **CLOSE** the case with issuance of an advisory letter reminding physician about proper supervision of PA's and staff in her clinics and patient communication. **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, and Dr. Unverzagt. **RECUSED:** Dr. Jenkusky and Ms. Saavedra. **MOTION CARRIED.**

Case #2020-A-091 RECOMMENDATION was made by Dr. Jenkusky to **CLOSE** the case with issuance of an advisory letter regarding improved communications between staff and patients and refer complainant to Department of Insurance for matters pertaining to the billing issues.

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

Case #2020-A-172 RECOMMENDATION was made by Dr. Jenkusky to offer resident physician an agreed order for stipulation of licensure requiring mandatory participation in the NMHPWP.

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

Case #2020-A-181 RECOMMENDATION was made by Dr. Jenkusky to offer physician applicant an agreed order for stipulated license requiring mandatory participation in NMHPWP. If applicant does not accept, a notice of contemplated action will be issued based on, but not limited to, habitual/excessive use of alcohol and failure to cooperate with a Board request.

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

Complaint Committee B

Case #2019-B-300 RECOMMENDATION was made by Dr. Spence to **CLOSE** the case and issue an advisory letter to physician regarding proper supervision of practitioners treating patients in the clinic and the Board's concern over the standard of care provided. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Carson, Dr. Unverzagt and Ms. Saavedra. **RECUSED:** Dr. Spence and Dr. Dr. Anderson. **MOTION CARRIED.**

Case #2020-B-011 RECOMMENDATION was made by Dr. Spence to **CLOSE** the case and issue an advisory letter to physician about the Board's Reporting Regulation and assessing \$150.00 in costs for failure to report an arrest. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Carson, Dr. Unverzagt and Ms. Saavedra. **RECUSED:** Dr. Spence and Dr. Dr. Anderson. **MOTION CARRIED.**

Case #2020-B-042 RECOMMENDATION was made by Dr. Spence to offer physician a stipulated license requiring payment of \$1,000.00 fine along with the issuance of reprimand. If physician does not accept, a notice of contemplated action will be issued based on, but not limited to, adverse licensure action taken by other states and failure to report. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Carson, Dr. Unverzagt and Ms. Saavedra. **RECUSED:** Dr. Spence and Dr. Dr. Anderson. **MOTION CARRIED**

Case #2020-B-149 RECOMMENDATION was made by Dr. Spence to offer physician the chance to enter into an agreed order for stipulation of licensure requiring mandatory participation in the NMHPWP and placing her license on inactive status pending receipt of the psychiatric evaluation, along with a assessing a fine of \$1,000.00 for the misrepresentation on her renewal application. If she does not agree, a summary suspension will be issued based on physician's imminent danger to the public, along with a Notice of Contemplated Action based on, but not limited to, conduct likely to harm and misrepresentation on a renewal application. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Carson, Dr. Unverzagt and Ms. Saavedra. **RECUSED:** Dr. Spence and Dr. Dr. Anderson. **MOTION CARRIED**

Complaint Committee C

Case #2020-C-124 RECOMMENDATION was made by Dr. Beaudette to **CLOSE** the case with no action and grant physician applicant a license to practice medicine in New Mexico. **YES:** Dr. Jenkusky, Dr. Spence, Dr. Anderson Dr. Unverzagt and Ms. Saavedra. **RECUSED:** Dr. Carson and Dr. Beaudette **MOTION CARRIED.**

Case #2020-C-100 RECOMMENDATION was made by Beaudette to **CLOSE** the case with issuance of an advisory letter cautioning physician about his unprofessional social media posts and about inappropriate advertising on social media as a professional licensee. The Board will be monitoring any future complaints against him. **YES:** Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **RECUSED:** Dr. Carson and Dr. Beaudette **MOTION CARRIED.**

Case #2020-C-164 RECOMMENDATION was made by Dr. Beaudette to **CLOSE** this case with issuance of a strongly worded advisory letter about the Board's reporting regulations and CME requirements and assessing \$150.00 in costs for the physician's failure to report. The Board will be monitoring future actions against physician. **YES:** Dr. Jenkusky, Dr. Spence, Dr. Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **RECUSED:** Dr. Carson and Dr. Beaudette **MOTION CARRIED.**

Case #2020-C-099 RECOMMENDATION was made by Dr. Beaudette to offer physician an agreed order for stipulation of licensure requiring mandatory participation in the NMHPW. If he does not accept, a notice of contemplated action will be issues based on, but not limited to, habitual/excessive use of alcohol or substances, conduct likely to harm and adverse licensure action in another state **YES:** Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **RECUSED:** Dr. Carson and Dr. Beaudette **MOTION CARRIED**

Case #2020-C-169 RECOMMENDATION was made by Dr. Beaudette to offer physician an agreed order for stipulation of licensure requiring mandatory participation in the NMHPW. **YES:** Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **RECUSED:** Dr. Carson and Dr. Beaudette **MOTION CARRIED**

Case #2020-C-182 RECOMMENDATION was made by Dr. Beaudette to refer physician applicant to the Center for Personalized Education for Physicians (CPEP) to obtain a competency evaluation prior to the Board deciding licensure issuance. If physician applicant does not accept, he may withdraw his application while under investigation or the Board will issue a notice of contemplated action to deny licensure based on, but not limited to, incompetency to practice. **YES:** Dr. Jenkusky, Dr. Spence, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **RECUSED:** Dr. Carson and Dr. Beaudette **MOTION CARRIED**

Case #2020-C-183 RECOMMENDATION was made by Dr. Beaudette to offer 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, incompetency to practice. **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: 2019-D-247 and 2020-D-107. **YES:** Dr. Jenkusky; Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson and Ms. Saavedra **RECUSED:** Dr. Unverzagt. **MOTION CARRIED.**

Case # 2019-D-313 RECOMMENDATION was made by Dr. Unverzagt to offer physician the chance to voluntarily surrender her license or a notice of contemplated action will be issued based on, but not limited to, incompetency to practice and failure to cooperate with a Board request. **YES:** Dr. Jenkusky; Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson and Ms. Saavedra **RECUSED:** Dr. Unverzagt. **MOTION CARRIED**

6. **Executive Committee Report**

7. **Licensing Requests and Actions, New Applicants/Reinstatements:**

Arlene Brown, MD- Joint Motion Requesting Approval of Proposed Agreed Order.

MOTION was made by Dr. Unverzagt to accept the Joint Motion Requesting Approval of Proposed Agreed Order. **SECONDED** by Dr. Anderson **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **RECUSED:** Dr. Jenkusky, **MOTION CARRIED**

8. **Reports:**

Financial Manager

FY22 Appropriation Request

Ms. Mascarenas provided the Board with the FY22 Appropriation Request summary.

The FY22 Appropriation Request was submitted to DFA and LFC on September 1, 2020. In the document provided, you will find a financial summary page that includes the FY22 Appropriation Request by funding source and uses. The request is flat in comparison to the FY21 operating budget that consists of \$2,336,900.

The Appropriation Request was presented at the LFC hearing on October 1, 2020. The board will need to vote to approve the FY22 Appropriation Request at this time.

MOTION was made by Ms. Saavedra to approve the FY22 Appropriation. **SECONDED** by Dr. Jenkusky **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **MOTION CARRIED**

Review and Approve the FY22 C2 Business Plan for the Licensing Platform

Ms. Mascarenas presented to the Board the plan for the new licensing platform. This will be a replacement of the current licensing platform named "My License Office" (MLO) with a new licensing platform named "Salesforce". NMMB is requesting \$996,300 in FY22 for the NMMB Licensing Software Modernization.

MOTION was made by Dr. Spence to approve the FY22 C2 Business Plan for the Licensing Platform **SECONDED** by Ms. Saavedra **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **MOTION CARRIED**

9. **New Business**

Polysomnography Technician Advisory Committee Appointments

Ms. Griego reported to the Board that Per NM Stat § 61-6B-8 (2019) the NMMB is required to appoint members to a Polysomnography Practice Advisory Committee that will advise the Board on all matters related to the Polysomnography Practice Act. Upon initial licensure of Sleep Techs by the NMMB in 2010 a committee was appointed and worked to draft licensing rules for Sleep Techs that were adopted by the Board. The Committee stopped meeting in 2012 and was never reestablished although the licensing and regulation of Sleep Techs continued by the NMMB.

Dr. Lee Brown was an initial member of the committee and reached out to NMMB to get the Committee back up and running, he also contacted members of the New Mexico Polysomnographic Association requesting volunteers for the Committee. The following volunteers are recommended for the Polysomnography Practice Advisory Committee; Lee Brown, MD, Steven Lopez, RPSGT, Eric Coontz, DDS and Wolfgang Schmidt-Nowara, MD.

After much discussion, the following motion was made.


MOTION was made by Dr. Beaudette to approve the Polysomnography Technician Advisory Committee Appointments as presented. **SECONDED** by Ms. Saavedra **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence. Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **MOTION CARRIED**

Review Proposed Board Meeting Dates-Calendar Year 2021

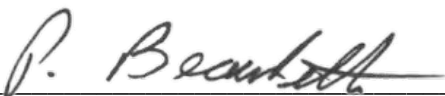
Ms. Frank provided the Board with proposed meeting dates for calendar year 2021. The Board will review the dates presented. The dates for calendar year 2021 will be adopted at the November Board meeting.

10. ADJOURN

There being no further business before the Board, Dr. Beaudette adjourned the meeting at 6:40 P.M.

SUBMITTED BY:  DATE: 11/19/2020

Sondra Frank, J.D., Executive Director

APPROVED BY:  DATE: 11/19/2020

Peter T. Beaudette, M.D., Chair

APPROVED BY:  DATE: 11/19/2020

Karen Carson, M.D, Vice Chair