

NEW MEXICO MEDICAL BOARD
Interim Board Meeting
June 25, 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
Amanda Chavez, Senior Investigator
Amanda Quintana, Compliance Manager / PIO
Elishia Lucero, Administrative Assistant
Antoinette Griego, Licensing Manager – Via Zoom

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. Beaudette 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. Beaudette to approve the minutes of the May 14-15, 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 of two issues that have been brought to his attention. One Issue being the video conferencing, and what the Board will allow and will not allow when conducting Informal interviews.

The second issue being, that USMLE will not be offering step two of the USMLE exam during the COVID-19 pandemic. Dr. Beaudette reminded the Board that step 2 of the USLME exam is a requirement for resident physicians seeking licensure. The Board agreed to discuss the issues at their next Board meeting.

5. Executive Director

Neighboring States licensure during COVID.

Ms. Frank informed Board about the recent questions she has received regarding neighboring states and telemedicine licensure for physicians during the COVID crisis. The question being, can the state of New Mexico waive the licensure requirements for established physician patient relationships with our bordering states?

Ms. Frank discussed with the Board the concerns of waiving the licensure requirements and how the

Board will reserve the jurisdictional power if requirements are waived. After much discussion, the following motion was made.

MOTION was made by Dr. Unverzagt to extend and expand the emergency authorization statement with public, notification provided by Dr. Jenkusky and Ms. Frank, with the following amendments. The Board will not prosecute reasonable medical care that follows the standard of care for established physician patient relationship during the COVID crisis. **SECONDED** by Dr. Spence. **YES:** Dr. Beaudette, Dr. Jenkusky, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra **MOTION CARRIED.**

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** Case: 2018-A-300 **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, and Dr. Unverzagt. **RECUSED:** Dr. Jenkusky and Ms. Saavedra. **MOTION CARRIED.**

Case #2020-A-075 RECOMMENDATION was made by Dr. Jenkusky to **CLOSE** the case with issuance of a resident license and an advisory letter to resident physician about following through with treatment recommendations to ensure both her wellbeing and safety of others. **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, and Dr. Unverzagt. **RECUSED:** Dr. Jenkusky and Ms. Saavedra. **MOTION CARRIED.**

Case #2020-A-108 RECOMMENDATION was made by Dr. Jenkusky to **CLOSE** the case with issuance of a resident license and an advisory letter to resident physician about following through with treatment recommendations to ensure both his wellbeing and safety of patients. **YES:** Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, and Dr. Unverzagt. **RECUSED:** Dr. Jenkusky and Ms. Saavedra. **MOTION CARRIED.**

Complaint Committee B

RECOMMENDATION was made by Dr. Anderson to **CLOSE** the following cases: 2019-B-236; 2019-B-258 and 2019-B-279 **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Carson, Dr. Unverzagt and Ms. Saavedra. **RECUSED:** Dr. Spence and Dr. Anderson. **MOTION CARRIED.**

Case #2020-B-102 RECOMMENDATION was made by Dr. Anderson to **CLOSE** the case and issue a medical license with an advisory letter reminding physician applicant to answer all Professional Practice Questions on future applications correctly and assessing a \$150.00 administrative cost, along with a friendly reminder about maintaining professionalism despite circumstances in personal life. **YES:** Dr.

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

Case #2020-B-055 RECOMMENDATION was made by Dr. Anderson to offer physician applicant the chance to withdraw his application for licensure 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 other state; conduct unbecoming; misrepresentation on application. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Carson, Dr. Unverzagt and Ms. Saavedra. **RECUSED:** Dr. Spence and Dr. Dr. Anderson. **MOTION CARRIED.**

Case #2020-B-059 -Tabled

Complaint Committee C

RECOMMENDATION was made by Dr. Beaudette to **CLOSE** the following cases: 2019-C-224; 2019-C-280; 2019-C-282; 2019-C-283; 2019-C-285 and 2020-C-286 **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Anderson and Dr. Unverzagt. **RECUSED:** Dr. Carson and Dr. Beaudette **MOTION CARRIED.**

Case #2020-C-103 RECOMMENDATION was made by Beaudette to **CLOSE** this case with no action and issuance of an unrestricted license. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Anderson, and Dr. Unverzagt. **RECUSED:** Dr. Carson and Dr. Beaudette **MOTION CARRIED.**

Case #2018-C-234 RECOMMENDATION was made by Dr. Beaudette to **CLOSE** this case with an advisory letter pertaining to an established pattern of concerning communication issues with patients and family members. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Anderson, and Dr. Unverzagt. **RECUSED:** Dr. Carson and Dr. Beaudette **MOTION CARRIED.**

Complaint Committee D

RECOMMENDATION was made by Dr. Unverzagt to **CLOSE** the following cases: 2019-D-307 and 2020-D-005. **YES:** Dr. Jenkusky; Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson and Ms. Saavedra **RECUSED:** Dr. Unverzagt. **MOTION CARRIED.**

Case # 2019-D-170 RECOMMENDATION was made by Dr. Unverzagt to **CLOSE** this case with an advisory letter cautioning physician about the role of medical assistant in patient care: Dr. Jenkusky; Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson and Ms. Saavedra **RECUSED:** Dr. Unverzagt. **MOTION CARRIED**

Case # 2020-D-053 RECOMMENDATION was made by Dr. Unverzagt to **CLOSE** this case with an advisory letter advising that the Board requested, not required, physician obtain an assessment from NMHPWP; that an assessment is not punitive, but rather a helpful measure taken by NMMB out of concern for physician and protection of public. **YES:** Dr. Jenkusky; Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson and Ms. Saavedra **RECUSED:** Dr. Unverzagt. **MOTION CARRIED**

Case # 2019-D-070 RECOMMENDATION was made by Dr. Unverzagt to offer resident physician an Agreed Order where he acknowledges the findings of fact, requires payment of a fine up to \$1000.00, issuance of a reprimand , and conditioning licensure in the future if he applies in NM. If resident physician does not accept, a notice of contemplated action will be issued based on, but not limited to, failure to respond to the Board, self-prescribing, violation of a drug law and conduct unbecoming. **YES:** Dr. Jenkusky; Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson and Ms. Saavedra **RECUSED:** Dr. Unverzagt. **MOTION CARRIED**

Case # 2020-D-082 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, adverse licensure action in another state, failure to cooperate with the Board and conduct unbecoming. **YES:** Dr. Jenkusky; Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson and Ms. Saavedra **RECUSED:** Dr. Unverzagt. **MOTION CARRIED**

Case # 2020-D-097 RECOMMENDATION was made by Dr. Unverzagt to offer physician applicant the chance to withdraw his application while under investigation or a notice of contemplated action will be issued based on, but not limited to, misrepresentation on an application, dishonesty and conduct unbecoming. **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:

Christopher Fletcher, MD- Motion to Remove from Table and to Take Action on Prosecution's Motion for Reimbursement of Costs.

MOTION was made by Dr. Jenkusky to accept the Motion to Remove from Table and to Take Action on Prosecution's Motion for Reimbursement of Costs. **SECONDED** by Dr. Beaudette **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **MOTION CARRIED.**

MOTION was made by Dr. Jenkusky to accept the Motion for Reimbursement of Costs **SECONDED** by Dr. Unverzagt. **SECONDED** by Dr. Beaudette **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **MOTION CARRIED.**

Joshua Brown, MD- Joint Motion Requesting Approval of Negotiated Resolution.

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

Analisa Villarreal, MD- Joint Motion Requesting Approval of Proposed Agreed Order.

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

Rodney Sholty, MD- Motion for Entry of Default Order.

MOTION was made by Dr. Jenkusky to accept the Motion for Entry of Default Order. **SECONDED** by Dr. Carson **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **MOTION CARRIED**

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

MOTION was made by Dr. Jenkusky to Deny Respondent's application for license to practice in New Mexico. **SECONDED** by Dr. Beaudette **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **MOTION CARRIED**

Heather Neil, PA- Motion for Order to Vacate NCA.

MOTION was made by Dr. Jenkusky to accept the Order Vacating NCA. **SECONDED** by Dr. Spence **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **MOTION CARRIED**

Ohmed Khilji, MD- Consider approval of FCSA evaluation of Foreign Medical School.

MOTION was made by Dr. Jenkusky to approve FCSA evaluation and issue a full unrestricted license. **SECONDED** by Dr. Beaudette **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **MOTION CARRIED**

8. Compliance Requests / Actions

Patrick Dunphy, PA– Request for Reinstatement of Prescribing Privileges.

MOTION was made by Dr. Jenkusky to **GRANT** Patrick Dunphy's request to reinstate prescribing privileges. **SECONDED** by Dr. Beaudette **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **MOTION CARRIED**

Charles Bennett, MD– Request for Release from Stipulation.

MOTION was made by Dr. Jenkusky to **GRANT** Charles Bennett's request to be released from stipulation. **SECONDED** by Dr. Beaudette **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **MOTION CARRIED**

Marques Pena, MD– Request for Release from Stipulation.

MOTION was made by Dr. Jenkusky to **GRANT** Marques Pena's request to be released from stipulation and issue a full unrestricted license. **SECONDED** by Dr. Beaudette **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Spence, Dr. Carson, Dr. Anderson, Dr. Unverzagt and Ms. Saavedra. **MOTION CARRIED**

9. Reports:

Licensing Manager

Review and Consider approval of California State Medical Boards New Process.

Ms. Griego presented to the Board the new process California has instituted for the approval of Foreign Medical Schools. Ms. Griego reminded the Board that NMMB utilizes California's list of recognized schools for the approval of foreign medical schools for applicants seeking licensure in NM. With the recent changes to California's process, NMMB will need to consider adopting the same process as California to approve foreign medical schools or consider utilizing the World Federation for Medical Education to approve these schools.

After discussion, the Board agreed to Table the request for further research.

10. Old Business

11. ADJOURN

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

SUBMITTED BY: Sondra Frank

DATE: 8/13/2020

Sondra Frank, J.D., Executive Director

APPROVED BY: P. Beaudette

DATE: 8/13/2020

Peter T. Beaudette, M.D., Chair

APPROVED BY: Karen Carson

DATE: 8/13/2020

Karen Carson, M.D, Vice Chair