

**NEW MEXICO MEDICAL BOARD
Interim Board Meeting
June 24, 2021
MINUTES**

MEETING MADE PUBLIC VIA ZOOM AND TELECONFERENCE

Members Present: Peter Beaudette, M.D., Chair

Video Conferencing: Karen Carson, M.D., Vice Chair
Steve Jenkusky, M.D., Secretary
James Spence, M.D.
Eric Anderson, M.D.- Excused
Mark Unverzagt, M.D.
Kathy Johnson, PA
Buffie Saavedra, Public Member

Others Present: Sondra Frank, Esquire, Executive Director-Via Zoom
Amanda Quintana, Compliance Manager / PIO- Via Zoom
Elishia Lucero, Administrative Assistant
Samantha Breen, Compliance Coordinator- Via Zoom
Debbie Deterich, Investigations Manager
Yvonne Chicoine, Esq.- Chief Legal Counsel- Via Zoom

1. CALL TO ORDER / ROLL CALL

Dr. Beaudette, after establishing the presence of a quorum, called the June 24, 2021, Interim Board Meeting of the New Mexico Medical Board to order at 3:03 pm, roll call was completed.

2. APPROVAL OF AGENDA

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

3. APPROVAL OF MINUTES

MOTION was made by Dr. Jenkusky to approve the minutes from the May 13-14, 2021, Regular Board meeting. **SECONDED** by Dr. Carson **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson. **EXCUSED:** Dr. Anderson. **MOTION CARRIED.**

George Madera, MD.- (Case No. 2020-010)

Dr. Beaudette granted Dr. Madera, his counsel, Dan Akenhead, Esq., and the Board's Prosecutor, Yvonne Chicoine, Esq., ten minutes of oral argument.

EXECUTIVE SESSION: Complaint Committee Reports

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

4. Complaint Committee Reports

Committee B

Case # 2021-B-033 Recommendation was made by Dr. Spence to offer Resident M.D. a stipulated license requiring mandatory participation in NMHPWP. If Resident M.D. 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 and conduct unbecoming. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Unverzagt Ms. Saavedra and Ms. Johnson. **RECUSED:** Dr. Spence. **EXCUSED:** Dr. Anderson. **MOTION CARRIED**

Case # 2021-B-036 Recommendation was made by Dr. Spence offering physician a stipulated license requiring mandatory participation in NMHPWP and requiring him to place his license on inactive status until cleared to return to work. If physician does not accept, the Board will issue a summary suspension based on physician's imminent danger to the public pursuant to 16.10.5.16 NMAC, along with a notice of contemplated action based on, but not limited to, conduct likely to harm and habitual/excessive use of alcohol or substances. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Unverzagt Ms. Saavedra and Ms. Johnson. **RECUSED:** Dr. Spence. **EXCUSED:** Dr. Anderson. **MOTION CARRIED**

Committee C

Case # 2020-C-330- Tabled.

Committee D

Case # 2021-D-103 Recommendation was made by Beaudette to close this case with no action and the issuance of a New Mexico Medical License to practice. **YES:** Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Anderson, Ms. Saavedra and Ms. Johnson. **RECUSED:** Dr. Beaudette and Dr. Unverzagt. **MOTION CARRIED**

5. Licensing Requests and Actions, New Applicants/Reinstatements

IMO- Vinay Saini,MD, - Respondents Motion to Dismiss (Case No. 2020-036)

MOTION was made by Dr. Jenkusky to deny respondent's motion to dismiss. **SECONDED** by Dr. Carson. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson. **EXCUSED:** Dr. Anderson. **MOTION CARRIED**

MOTION was made by Dr. Jenkusky to adopt the Hearing Officer's report as amended by Dr. Jenkusky and reviewed by the Executive Committee. **SECONDED** by Dr. Beaudette. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson. **EXCUSED:** Dr. Anderson. **MOTION CARRIED**

MOTION was made by Dr. Jenkusky to adopt the following Conclusions of Law, consistent with the documentary and evidentiary record in the case and its authority under the Medical Practice Act and the Uniform Licensing Act, the Board adopts the following conclusions of law.

- A. At all times relevant to this proceeding, the Board has had jurisdiction over Respondent and the subject matter.

- B. In its proceedings, the Board accorded Respondent all the due process to which he is entitled.
- C. A preponderance of the evidence supports the following factual allegations.
 - 1. Quality of care complaints were made about Respondent's work and behavior during the final months he worked at Gila Regional Medical Center (GRMC).
 - 2. Respondent's conduct resulted in termination of Respondent's employment and his loss of privileges at GRMC.
 - 3. Respondent did not report to the Board the adverse actions GRMC took against his privileges and his employment.
 - 4. The renewal application Respondent submitted to the Board in 2020, which Respondent attested was accurate, contains at least two false statements.
- D. Respondent's conduct, as established by a preponderance of the evidence, constitutes, unprofessional and dishonorable conduct, as defined in Section 61-6-15(D) of the Medical Practice Act and the Board's Rules, which are codified at Title 16, Chapter 10 of the New Mexico Administrative Code (NMAC). For example –
 - 1. misrepresentation . . . in connection with applying for or procuring renewal, NMSA 1978, § 61-6-15(D)(8),
 - 2. failure to report to the [B]oard any adverse action taken against the licensee, NMSA 1978, § 61-6-15(D)(21),
 - 3. violation of 16.10.10 NMAC. Establishing requirements for the reporting of adverse actions.
- E. No basis exists for the Board to excuse Respondent from reimbursing the Board the costs it incurred in its proceedings against him. NMSA 1978, § 61-1-4(G).

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

MOTION was made by Dr. Jenkusky to issue a letter of reprimand to respondent for his failure to report and to disclose on renewal, the actions taken against him. **SECONDED** by Dr. Beaudette. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson. **EXCUSED:** Dr. Anderson. **MOTION CARRIED**

IMO-Erin Fenstermacher, MD - Decision and Order Following Evidentiary Hearing (Case No. 2020-042)
MOTION was made by Dr. Jenkusky to accept the Hearing Officers report as presented. **SECONDED** by Dr. Carson **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson. **EXCUSED:** Dr. Anderson **MOTION CARRIED**

MOTION was made by Dr. Jenkusky to accept the Conclusions of Law as presented by the Board Prosecutor, Yvonne Choicoine, Esq. **SECONDED** by Dr. Carson. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson. **EXCUSED:** Dr. Anderson. **MOTION CARRIED**

MOTION was made by Dr. Jenkusky to revoke Dr. Fenstermacher’s license **SECONDED** by Dr. Carson. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson. **EXCUSED:** Dr. Anderson. **MOTION CARRIED**

IMO-George Madera, MD – Decision and Order Following Evidentiary Hearing (Case No. 2020-010)

MOTION was made by Dr. Jenkusky to deny respondent’s motion for a stay. **SECONDED** by Dr. Carson. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson. **EXCUSED:** Dr. Anderson. **MOTION CARRIED**

MOTION was made by Dr. Jenkusky to accept the Hearing Officer’s Report and the Proposed Findings of Fact as presented. **SECONDED** by Dr. Unverzagt. **YES:** Dr. Beaudette, Dr. Carson, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson. **RECUSED:** Dr. Jenkusky. **EXCUSED:** Dr. Anderson. **MOTION CARRIED**

MOTION was made by Dr. Jenkusky to accept the Conclusion’s of Law as presented by Board Prosecutor, Yvonne Chicoine, Esq. **SECONDED** by Dr. Unverzagt. **YES:** Dr. Beaudette, Dr. Carson, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson. **RECUSED:** Dr. Jenkusky. **EXCUSED:** Dr. Anderson. **MOTION CARRIED**

MOTION was made by Dr. Jenkusky to issue a letter of reprimand and accessing a \$3000.00 fine along with suspension of respondent’s medical license, pending the results from a Board approved neuropsychiatric examination concluding that Respondent is fit for duty and the safe to practice. **SECONDED** by Dr. Beaudette. **YES:** Dr. Beaudette, Dr. Carson, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson. **RECUSED:** Dr. Jenkusky. **EXCUSED:** Dr. Anderson. **MOTION CARRIED**

IMO-Keith Levitt, MD – Possible Settlement (Case No. 2021-007)

MOTION was made by Dr. Jenkusky to accept the proposed agreed order as presented. **SECONDED** by Dr. Carson. **YES:** Dr. Beaudette, Dr. Carson, Dr. Jenkusky, Dr. Spence, Dr. Unverzagt, Ms. Saavedra and Ms. Johnson. **EXCUSED:** Dr. Anderson. **MOTION CARRIED**

6. ADJOURN

There being no further business before the Board, Dr. Beaudette adjourned the meeting at 6:25 p.m.

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

DATE: _____

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

DATE: _____

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

DATE: _____