

NEW MEXICO MEDICAL BOARD
Interim Board Meeting
March 29, 2018
MINUTES

Members Present: Steve Jenkusky, MD, Chair
Sebastian Dunlap, Esq., Public Member
Peter Beaudette, MD
Philip Styka, MD
James Spence, MD

Teleconference: Jennifer Anderson, Esq., Public Member, Secretary Treasurer
Karen Carson, MD

Excused: Albert Bourbon, PA, Vice Chair
Steve Komadina, MD

Other Staff Present: Sondra Frank, J.D., Executive Director
Debbie Dieterich, Investigations Manager
Amanda Quintana, Compliance Manager / PIO
Yvonne Chicoine, Prosecutor
Samantha Breen, Administrative Assistant

1. CALL TO ORDER / ROLL CALL

Dr. Jenkusky called the Interim Board Meeting of the New Mexico Medical Board to order at 4:00 p.m. and a quorum was present.

2. APPROVAL OF AGENDA

MOTION was made by Dr. Jenkusky to approve the Agenda. **SECONDED** by Dr. Spence. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Styka, Dr. Spence, Ms. Anderson and Dr. Carson. **ABSENT:** Mr. Bourbon and Dr. Komadina. **MOTION CARRIED.**

3. APPROVAL OF MINUTES

MOTION was made by Dr. Jenkusky to accept and approve the minutes of the February 8-9, 2018 Board Meeting as presented. **SECONDED** by Dr. Beaudette. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Styka, Dr. Spence, Ms. Anderson and Dr. Carson. **ABSENT:** Mr. Bourbon and Dr. Komadina. **MOTION CARRIED.**

4. Chair Report

None

5. Executive Director

None

EXECUTIVE SESSION: Complaint Committee Reports / Licensing Requests and 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 Mr. Dunlap **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Styka, Dr. Spence, Ms. Anderson and Dr. Carson. **ABSENT:** Mr. Bourbon and Dr. Komadina. **MOTION CARRIED.**

OPEN SESSION

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

6. **ACTIONS RELATED TO EXECUTIVE SESSION**

Complaint Committee A

Case #2017-A-294 RECOMMENDATION was made by Dr. Beaudette to close this case and issue an unrestricted medical license. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Styka, Dr. Spence and Ms. Anderson. **RECUSED:** Dr. Beaudette and Dr. Carson. **ABSENT:** Mr. Bourbon and Dr. Komadina. **MOTION CARRIED.**

Case #2018-A-042 RECOMMENDATION was made by Dr. Beaudette to offer physician applicant a stipulated license requiring mandatory participation in the NM Health Professional Wellness Program. If physician applicant does not accept, a notice of contemplated action to deny licensure will be issued based on, but not limited to, habitual/excessive use of substances. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Styka, Dr. Spence and Ms. Anderson. **RECUSED:** Dr. Beaudette and Dr. Carson. **ABSENT:** Mr. Bourbon and Dr. Komadina. **MOTION CARRIED.**

Complaint Committee B

Case #2017-B-225 RECOMMENDATION was made by Dr. Jenkusky to offer physician applicant the chance to withdraw his application for licensure while under investigation, and if he does not accept, a notice of contemplated action will be issued to deny licensure based on, but not limited to, habitual/excessive use of substances; adverse action taken against him by another state medical board; and incompetency to practice. **YES:** Mr. Dunlap, Dr. Styka, Dr. Spence, Ms. Anderson and Dr. Carson. **RECUSED:** Dr. Jenkusky. **ABSENT:** Mr. Bourbon and Dr. Komadina. **MOTION CARRIED.**

Complaint Committee C

Case #2017-C-023 - Status review only for board members. Return to Investigations for further monitoring and processing.

Case #2017-C-222 RECOMMENDATION was made by Dr. Spence to offer PA Applicant the chance to withdraw his licensure application while under investigation, and if he does not accept, a notice of contemplated action will be issued to deny licensure based on, but not limited to, misrepresentation on application, conduct unbecoming and dishonesty. **YES:** Dr. Jenkusky, Dr. Beaudette, Dr. Styka, Ms. Anderson and Dr. Carson. **RECUSED:** Dr. Spence and Mr. Dunlap. **ABSENT:** Mr. Bourbon and Dr. Komadina. **MOTION CARRIED.**

Case #2017-C-295 – This case was tabled.

Complaint Committee D

Case #2017-D-218 - This case was tabled.

Case #2018-D-041 RECOMMENDATION was made by Dr. Styka issue an unrestricted license to physician applicant with an advisory letter on required disclosure of information on future applications and payment of \$150 in investigative costs to be paid prior to issuance of license. This would be considered non-disciplinary and non-reportable. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Spence and Dr. Carson. **RECUSED:** Dr. Styka and Ms. Anderson. **ABSENT:** Mr. Bourbon and Dr. Komadina. **MOTION CARRIED.**

7. **Executive Committee Report**
None

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

Umesh Juashi, MD – Consider experience in lieu of ACGME accredited postgraduate training. **MOTION** was made by Dr. Jenkusky to accept Dr. Juashi's experience in lieu of the required ACGME accredited postgraduate training and issue him an unrestricted license to practice medicine in New

Mexico. **SECONDED** by Dr. Spence. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Styka, Dr. Spence, Ms. Anderson and Dr. Carson. **ABSENT:** Mr. Bourbon and Dr. Komadina. **MOTION CARRIED.**

Paul Willette, MD – Case no. 2016-040 – Consider Motion To Stay.

MOTION was made by Dr. Jenkusky to **DENY** the Motion to Stay. **SECONDED** by Dr. Spence. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Styka, Dr. Spence and Ms. Anderson. **RECUSED:** Dr. Carson. **ABSENT:** Mr. Bourbon and Dr. Komadina. **MOTION CARRIED.**

Rob Kamermans, MD – Case no. 2017-056 – Motion for Approval of Agreed Order for Voluntary Withdrawal of Application. **MOTION** was made by Dr. Jenkusky to **APPROVE** the Motion for Approval of Agreed Order for Voluntary Withdrawal of Application. **SECONDED** by Dr. Spence. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Styka, Dr. Spence and Ms. Anderson. **RECUSED:** Dr. Beaudette and Dr. Carson. **ABSENT:** Mr. Bourbon and Dr. Komadina. **MOTION CARRIED.**

Thomas Prose, MD – Case no. 2017-026 – Request for Stay. **MOTION** was made by Dr. Jenkusky to **DENY** the Request for Stay. **SECONDED** by Dr. Spence. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Styka, Dr. Spence and Ms. Anderson. **RECUSED:** Dr. Carson. **ABSENT:** Mr. Bourbon and Dr. Komadina. **MOTION CARRIED.**

Lynda Labranche, MD – Case no. 2017-037 – Order to Show Cause. **MOTION** was made by Dr. Jenkusky to remand this case back to the Hearing Officer with instructions to take testimony from Dr. Labranche but giving the Hearing Officer latitude in terms of taking the testimony and scheduling the hearing. **SECONDED** by Ms. Anderson. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Styka, Dr. Spence, Ms. Anderson and Dr. Carson. **RECUSED:** Dr. Beaudette. **ABSENT:** Mr. Bourbon and Dr. Komadina. **MOTION CARRIED.**

Richard Butler, MD – Case no. 2017-037 – Entry of Default Order. **MOTION** was made by Dr. Jenkusky to accept the Default Order and **REVOKE** Dr. Butler's NM Medical License. **SECONDED** by Dr. Spence. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Styka, Dr. Spence and Ms. Anderson. **RECUSED:** Dr. Carson and Dr. Beaudette. **ABSENT:** Mr. Bourbon and Dr. Komadina. **MOTION CARRIED.**

Robert Milne, MD – Case no. 2017-053 – Entry of Default Order. **MOTION** was made by Dr. Jenkusky to accept the Default Order and **REVOKE** Dr. Milne's NM Medical License. **SECONDED** by Dr. Spence. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Spence, Ms. Anderson and Dr. Carson. **RECUSED:** Dr. Styka. **ABSENT:** Mr. Bourbon and Dr. Komadina. **MOTION CARRIED.**

Steven Black, MD – Case no. 2018-007 – Decision and Order on Summary Suspension Hearing. **MOTION** was made by Dr. Jenkusky accept the Hearing Officers Report as submitted. **SECONDED** by Dr. Beaudette. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Styka, Dr. Spence and Ms. Anderson. **RECUSED:** Dr. Carson. **ABSENT:** Mr. Bourbon and Dr. Komadina. **MOTION CARRIED.**

MOTION was made by Dr. Jenkusky to lift Dr. Black's suspension and reactivate his license. **SECONDED:** Dr. Spence. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Styka, Dr. Spence and Ms. Anderson. **RECUSED:** Dr. Carson. **ABSENT:** Mr. Bourbon and Dr. Komadina. **MOTION CARRIED.**

EXECUTIVE SESSION: Complaint Committee Reports / Licensing Requests and 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 Mr. Dunlap **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Styka, Dr. Spence, Ms. Anderson and Dr. Carson. **ABSENT:** Mr. Bourbon and Dr. Komadina. **MOTION CARRIED.**

OPEN SESSION

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

Steven Black, MD – Case no. 2018-007 - MOTION was made by Dr. Jenkusky that the Board finds that the Conclusions of Law in this care are in Rule 16.10.14.10 in which the Board imposes three requirements for licensees who are being treated with opiates for chronic pain in order to prove that they are competent and capable of practicing medicine in a safe manner. Based on the evidence presented in the Hearing Officers report the Board does not find Dr. Black to be a clear and immediate danger to the public, however the Board does find that the respondent has failed to be compliant with the three requirements. **SECONDED** by Dr. Styka. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Styka and Dr. Spence. **RECUSED:** Dr. Carson. **ABSENT:** Mr. Bourbon, Ms. Anderson and Dr. Komadina. **MOTION CARRIED.**

Edwin Hall, MD – Case no. 2017-036 and 2018-005 – Consider Settlement. MOTION was made by Dr. Beaudette to approve the Settlement as presented. **SECONDED** by Ms. Anderson. **YES:** Mr. Dunlap, Dr. Beaudette, Dr. Spence, Ms. Anderson and Dr. Carson. **RECUSED:** Dr. Jenkusky and Dr. Styka. **ABSENT:** Mr. Bourbon and Dr. Komadina. **MOTION CARRIED.**

9. Compliance Requests:

Miles Nelson, MD – License no. 93-346 – Request for Reactivation of License. – MOTION was made by Dr. Spence to table this item while waiting on additional information. **SECONDED** by Mr. Dunlap. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Styka, Dr. Spence, Ms. Anderson and Dr. Carson. **ABSENT:** Mr. Bourbon and Dr. Komadina. **MOTION CARRIED.**

10. Consider Rule Hearing to Repeal/Amend 16.10.16 NMAC – MOTION was made by Dr. Spence to approve the rule as presented for Rule Hearing contingent upon the NM Board of Pharmacy’s review of the amendments. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Jenkusky, Mr. Dunlap, Dr. Beaudette, Dr. Styka, Dr. Spence and Dr. Carson. **ABSENT:** Mr. Bourbon, Ms. Anderson and Dr. Komadina. **MOTION CARRIED.**

11. ADJOURN - There being no further business before the Board, Dr. Jenkusky adjourned the meeting at 6:55 p.m.

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

APPROVED BY: _____ DATE: _____
Steve Jenkusky, MD, Chair

APPROVED BY: _____ DATE: _____
Jennifer Anderson, Esq., Secretary