

**NEW MEXICO MEDICAL BOARD
Interim Board Meeting
September 27, 2018
MINUTES**

Members Present: Steve Jenkusky, MD, Chair
Peter Beaudette, MD, Vice Chair
Sebastian Dunlap, Esq., Public Member
James Spence, MD
Philip Styka, MD (arrived in person to the meeting at 4:06 pm)

Teleconference: Karen Carson, MD
Charles D. Otero, PA

Excused: Steve Komadina, MD, Secretary/Treasurer
Jennifer Anderson, Esq., Public Member

Other Staff Present: Sondra Frank, J.D., Executive Director
Debbie Dieterich, Investigations Manager
Barbara Orender, Licensing Manager
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, Dr. Spence, Mr. Dunlap, Dr. Beaudette, Dr. Carson and PA Otero. **ABSENT:** Dr. Styka, Dr. Komadina and Ms. Anderson. **MOTION CARRIED.**

3. APPROVAL OF MINUTES

MOTION was made by Dr. Spence to accept and approve the minutes of the August 9-10, 2018 Board Meeting as presented. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Jenkusky, Dr. Spence, Mr. Dunlap, Dr. Beaudette, Dr. Carson and PA Otero. **ABSENT:** Dr. Styka, Dr. Komadina and Ms. Anderson. **MOTION CARRIED.**

MOTION was made by Dr. Spence to accept and approve the minutes of the August 17, 2018 Special Board Meeting as presented. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Jenkusky, Dr. Spence, Dr. Beaudette, Dr. Carson and PA Otero. **ABSTAIN:** Mr. Dunlap. **ABSENT:** Dr. Styka, Dr. Komadina and Ms. Anderson. **MOTION CARRIED.**

4. Chair Report

Dr. Jenkusky reported that he and Ms. Frank attended the New Mexico Medical Society Annual meeting.

Dr. Jenkusky also reported that he and Ms. Frank will be having lunch with Randy Marshall and the New Mexico Medical Society on September 28, 2018 to discuss artificial intelligence and algorithmic medical prescribing.

5. Consider In Person Appearance By Respondents At Evidentiary Hearing.

MOTION was made by Dr. Jenkusky to adopt a declaratory ruling providing:

At evidentiary hearings, respondents and fact witnesses must appear in-person *unless* (1) the opposing party agrees otherwise and/or (2) circumstances beyond the control of the respondent or fact witness precludes an in-person appearance. Circumstances beyond the control of the respondent or fact witness include incarceration, military orders, physical or mental incapacity, and unanticipated weather or similar conditions. Inconvenience, scheduling conflicts, difficulty in making travel arrangements, and other circumstances that might be considered as voluntary would not be considered as being beyond the control of the respondent or fact witness. In cases where a person cannot appear in person, the respondent or fact witness may appear electronically, but only if the party requesting the electronic appearance provides written, advance assurance to the Board in advance of the hearing that the electronic appearance will not interfere with the conduct of the hearing or result in increased expense to the Board. **SECONDED** by Dr. Spence. **YES:** Dr. Jenkusky, Dr. Spence, Dr. Styka, Mr. Dunlap, Dr. Beaudette, Dr. Carson and PA Otero. **ABSENT:** Dr. Komadina and Ms. Anderson. **MOTION CARRIED.**

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

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 Dr. Spence. **YES:** Dr. Jenkusky, Dr. Spence, Dr. Styka, Mr. Dunlap, Dr. Beaudette, Dr. Carson and PA Otero. **ABSENT:** Dr. Komadina and Ms. Anderson. **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 #2016-A-289; 2017-A-098; 2017-A-305 RECOMMENDATION was made by Dr. Beaudette offering physician a stipulated license requiring her to participate in education through CPEP in medical recordkeeping, chronic pain management, ethics and patient communications, along with payment of a fine in the amount of \$4000 plus expert costs. If she does not accept, a notice of contemplated action will be issued based on, but not limited to, repeated negligent acts, injudicious prescribing, and failure to maintain accurate, complete medical records, conduct unbecoming and failure to follow the Board's regulation on PMP use. **YES:** Dr. Jenkusky, Dr. Spence, Dr. Styka, Mr. Dunlap and PA Otero. **RECUSED:** Dr. Beaudette, Dr. Carson **ABSENT:** Dr. Komadina and Ms. Anderson. **MOTION CARRIED.**

Case #2018-A-005 RECOMMENDATION was made by Dr. Beaudette offering physician the chance to either (1) voluntarily surrender her license or (2) enter into an interim stipulation of licensure requiring no practice until cleared to return to work by physician's treating physician and the Board along with a notice of contemplated action based on, but not limited to, failure to report adverse action on clinical privileges, failure to comply with the Board's Regulation on Chronic Opiate Use, misrepresentation on renewal applications, manifest incapacity to practice, and conduct likely to harm. If physician does not accept either option, a summary suspension will be issued based on imminent danger to the public, along with a notice of contemplated action based on above. **YES:** Dr. Jenkusky, Dr. Spence, Dr. Styka, Mr. Dunlap and PA Otero. **RECUSED:** Dr. Beaudette, Dr. Carson **ABSENT:** Dr. Komadina and Ms. Anderson. **MOTION CARRIED.**

Case #2018-A-198 RECOMMENDATION was made by Dr. Beaudette offering resident physician a stipulated license requiring mandatory participation in the NM HPWP, and if he does not accept, a notice of contemplated action will be issued based on, but not limited to, excessive/habitual use of substances. . **YES:** Dr. Jenkusky, Dr. Spence, Dr. Styka, Mr. Dunlap and PA Otero. **RECUSED:** Dr. Beaudette, Dr. Carson **ABSENT:** Dr. Komadina and Ms. Anderson. **MOTION CARRIED.**

Complaint Committee D

Case #2018-D-148 RECOMMENDATION was made by Dr. Styka Complaint offering PA a stipulated license requiring mandatory participation in the NM HPWP and if he does not accept, then a notice of contemplated action will be issued based on, but not limited to, conduct unbecoming. **YES:** Dr. Jenkusky, Dr. Spence, Mr. Dunlap, Dr. Beaudette, Dr. Carson and PA Otero. **RECUSED:** Dr. Styka **ABSENT:** Dr. Komadina and Ms. Anderson. **MOTION CARRIED.**

7. Executive Committee Report

Nothing to report.

8. LICENSING ISSUES, NEW APPLICANTS / REINSTATEMENTS

Elizabeth V. Rogol, MD – Consider 11 year’s non-ACGME postgraduate training in lieu of second year of accredited PGT. MOTION was made by Dr. Spence to **GRANT** Dr. Rogol an unrestricted license. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Jenkusky, Dr. Spence, Dr. Styka, Mr. Dunlap, Dr. Beaudette, Dr. Carson and PA Otero. **ABSENT:** Dr. Komadina and Ms. Anderson. **MOTION CARRIED.**

Richard Austin, MD – Consider motion to accept proposed agreed order for voluntary surrender MOTION was made by Dr. Jenkusky to **ACCEPT** the agreed order as presented. **SECONDED** by Dr. Beaudette. **SECONDED** by Dr. Jenkusky. **YES:** Dr. Jenkusky, Dr. Spence, Dr. Styka, Mr. Dunlap, Dr. Beaudette, Dr. Carson and PA Otero. **ABSENT:** Dr. Komadina and Ms. Anderson. **MOTION CARRIED.**

9. Old Business

PA Prescribing Rule 16.10.16 NMAC Task Force members are Dr. Komadina, Dr. Styka and PA Otero.

Dr. Spence informed the Board that he recently spoke with a member of the DO Board and asked Ms. Frank to send a copy of our current rules.

10. Adjourn

4:59 p.m.

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

DATE: 9/27/18

APPROVED BY: 
Steve Jenkusky, MD, Chair

DATE: 9/27/18

APPROVED BY: 
Peter Beaudette, MD, Vice Chair

DATE: 9/27/18