

IOWA BOARD OF MEDICINE
400 SW Eighth Street, Suite C
Des Moines IA 50309

BOARD MEETING
August 19-20, 2010

PUBLIC SESSION MINUTES FOR AUGUST 20, 2010

MEMBERS PRESENT:

Siroos Shirazi, M.D., Chair
Janice Galli, D.O., Secretary
Tom Drew
Analisa Haberman, D.O.
Amber Mian
Jeff Snyder, M.D.
Colleen Stockdale, M.D.
Paul Thurlow
Joyce Vista-Wayne, M.D.

MEMBERS ABSENT:

Rod Zeitler, M.D., Vice-Chair

STAFF PRESENT:

Mark Bowden, Executive Director
Theresa Weeg, Assistant Attorney General
Julie Bussanmas, Assistant Attorney General
Kent M. Nebel, Director of Legal Affairs
John Olds, M.D., Medical Advisor
Russell Bardin, Chief Investigator
Ed Knapp, Investigator
James Machamer, Investigator
Amy VanMaanen, Director of Licensure
Deb Anglin, Coordinator of IPHP
Shantel Billington, Enforcement Monitor
Teena Turnbaugh, Secretary

PUBLIC PRESENT:

Jeanine Freeman, Iowa Medical Society (IMS)
Leah McWilliams, Iowa Osteopathic Medical Association (IOMA)
Lorinda Inman, Iowa Board of Nursing (IBON)
Kathy Weinberg, IBON
Kevin Kruse, Iowa Society of Anesthesiologists (ISA)
Monsignor Frank Bognanno, Christ the King Parish
Cheryl Sullenger, Operation Rescue (OR)
Troy Newman (OR)
Maggie DeWitte, Iowans for Life is For Everyone (LIFE)
Michelle Clark, Iowa Naturopathic Physicians Association (INPA)
Jessica Curio, INPA
Michelle Locher
Colleen Pasnik, Dubuque County Right to Life
Thomas Brejeh, Thomas Marc Society

Greg Boattenhamer, Iowa Hospital Association
Kathy Weinberg, Iowa Board of Nursing
Mike Glover, Associated Press
Rodney A. White, Des Moines Register
Rod Boshart, Cedar Rapids Gazette
Bill Petroski, Des Moines Register
Mike Falkstrom, Planned Parenthood of the Heartland
Norman Pawlewski
Kevin Morean
Jenny Tyler, Iowa Association of Nurse Anesthetists (IANA)
Mindy Miller (IANA)
Stephen Tatz (LIFE)
Jenifer Bowen, Iowa Right to Life
Mary LaFrancis, Jefferson City Right to Life
Katie Cownie, Iowa Dental Association

The public session of the meeting was held at the Iowa Board of Medicine, 400 SW Eighth Street, Suite C, Des Moines.

The Board was in closed session.

On a motion by Paul Thurlow, and a second by Colleen Stockdale, M.D., the Board voted to go into open session.

Dr. Shirazi called the public session to order at 1:00 p.m.

A. Approval of Agenda and Acknowledgement of absent Board members

Agenda items F-1, 4, 5, 6 will not be discussed and should be removed from the agenda.

Due to the number of people who wish to speak during "C. Opportunity for Public Comment," there will be a limit of 10 minutes of public comment per topic.

Rod Zeitler, M.D., is absent from the meeting.

On a motion by Tom Drew and a second by Janice Galli, D.O., the Board approved the changes made to the agenda.

B. Minutes

On a motion by Colleen Stockdale, M.D., and a second by Jeff Snyder, M.D., the Board approved the public case action voting and closed minutes for October 21-22, 2009, meeting and the open and closed minutes for the July 8 and July 22, 2010, teleconferences.

C. Opportunity for Public Comment (4)

Norman Pawlewski presented a letter to the Board regarding medical abortions performed by Planned Parenthood. He believes that Planned Parenthood does not have emergency care available for the patient. He believes Planned Parenthood is not following FDA instructions for administering the abortion-inducing drug. He said the state is negligent in allowing this practice to continue. He requested the Board to seek assistance from the Boards of Health, Pharmacy, Nursing and Physician Assistants to address the public health issues associated with the medical abortions.

Michelle Locher presented an overview on the case of Holly Patterson, an 18-year-old from California, who died from septic shock and infection resulting from incomplete expulsion of the fetus after a medical abortion.

Thomas Brejeh said protocols for an abortion are clearly stated in the law. He said the examination of tissue is to take place at the provider's office and this cannot be done using a remote video.

Cheryl Sullenger said the Planned Parenthood complaint is not about telemedicine. She said the issue is about a pregnant woman taking a pill, being video monitored a few minutes and never seeing the physician again. The person is informed to go to an emergency room if she has problems. This violates the standard of care provided by the prescribing physician.

Maggie DeWitte presented a letter representing various organizations regarding requests to investigate Planned Parenthood's use of telemedicine to dispense RU-486, resulting in a medical abortion. The letter stated that Iowa law mandates that a physician must perform abortions, and RU-486 can only be used up to the seventh week of pregnancy.

Monsignor Frank Bognanno presented a letter that requested the Board to uphold the fundamental value of human life from the moment of conception to the moment of natural death.

No further comments were made.

D. Chair's Report

No comments were made.

E. Executive Committee

1. Executive Director's Report

The Board received approval to fill 3 of the 4 investigator positions that were left vacant due to retirements earlier this year. Russell Bardin is reviewing applications, and plans to hire the new investigators this fall. In the interim, Bardin has reassigned the open cases of the retired investigators to the three investigators and himself.

Janece Valentine, an attorney from Fort Dodge, was approved by Governor Culver to serve as an alternate Board member. Valentine is a former Board member. The Board has four alternate board members to serve on panels that hear contested cases.

Amy Van Maanen attended a Federation of State Medical Boards meeting in Dallas, Texas, August 16-18, 2010, regarding the uniform applications for state medical licensure. (She will report on this meeting when she presents a report for the Licensure Committee.)

Kent Nebel will attend the National Governors Association's State Alliance for e-Health Licensure meeting in Washington, D.C., on August 31, 2010. He will assist a national effort to standardize health-related questions on state medical licensure applications to ensure that these questions are compliant with the Americans with Disabilities Act.

The Board office will be closed for Labor Day on Monday, September 6.

The Board's next teleconference is September 9 and the Board's next regular meeting is October 21-22.

2. Administrative Rules

- a. On a motion by Tom Drew and a second by Colleen Stockdale, M.D., the Board voted to adopt and file amendments to Chapters 13 and 23. Subrules 13.8 through 13.8(4) establish the standard of practice for physicians who present themselves as, or serve as, medical directors for medical spas. Subrules 23.43

through 23.44 establish grounds for discipline if the medical director standards are violated. The Executive Committee, meeting on August 19, made slight revisions in the noticed rules, incorporating some suggestions received at a public hearing on the rules. The Board voted to adopt and file the rules with revisions as recommended by the Executive Committee.

b. On a motion by Paul Thurlow and a second by Joyce Vista Wayne, M.D., the Board approved a Notice of Intended Action to amend Chapter 2, "Public Records and Fair Information Practices." The amendments, which encompass Subrules 2.13(1) through 2.13(4), are offered to update provisions which are no longer correct or applicable.

c. Kent Nebel gave the Board an update on the new administrative rule on interventional chronic pain management. IAC 653 13.8(1)-13.8(3) became effective August 4. The Board took no action on a proposal by the Iowa Dental Association to amend the rule to clarify that the practice of dentistry would not be affected by the rule. The Board received, but did not discuss, a letter from the Iowa Hospital Association which took issue with comments by Kent Nebel at the July 20 meeting of the Administrative Rules Review Committee.

3. **Other Boards**

a. Mark Bowden gave the Board an update on the Board of Pharmacy's pending amendments to Chapter 8, Universal Practice Standards, regarding administration of immunizations by pharmacists. A Board of Medicine ad hoc committee met with Pharmacy board representatives earlier this year to assist in drafting the amendments. The Pharmacy board's rules committee will review the amendments on September 1. The Pharmacy board will consider adopting the amendments at its September 29 meeting. The Board of Medicine made no further comments regarding the amendments.

b. Board members reviewed the latest report from the Board of Pharmacy's Iowa Prescription Monitoring Program. Board members felt that physicians who are prescribing controlled substances should be checking the program's database as a part of patient evaluation and treatment. Board Chair Siroos Shirazi, M.D., said a Board ad-hoc committee will look issues relating to prescribing controlled substances.

c. Mark Bowden drew the Board members' attention to the news report that announced that the Pharmacy board's study on medical marijuana had been called off.

F. **Topics for Discussion**

1. **Licenses who fail to pay a civil penalty**

Topic was withdrawn from agenda.

2. **Licenses who are issued certificates of non-compliance by Iowa Department of Revenue**

Kent Nebel reported that under a new law to help collect unpaid debt to the state, such as unpaid taxes, the revenue department can issue a certificate of non-compliance if a licensee has not paid the debt or made approved arrangements to do so. The Board is required to suspension the licensee's license within 60 days after the certificate is issued. Nebel said the Board has received notification that four physicians are non-compliant. Theresa Weeg said the Attorney General's Office will look at the issue to determine if the non-compliance certificates could also cover circumstances in which a licensee's fails to pay a Board-ordered civil penalty.

3. **Retaliation against complainants**

Theresa Weeg said there appears to be an increase in number of lawsuits being filed against complainants – both consumers and licensees. There is a worry that the public and other physicians will not file complaints against licensees due to the fear of being sued. She said the lawsuits can be personally costly. Weeg said state law protects complainants who file in good faith, but they can still be sued. She said the Attorney General's Office will look at the issue. Board Chair Siroos Shirazi, M.D., asked Jeanine Freeman, Iowa Medical Society, if her organization was aware of the problem. She stated that immunity should be

provided to physicians and who legitimately file complaints (not because of competition) against other physicians.

4. Licensees who fail to complete CMEs recommended in letters of warning

Topic was withdrawn from agenda.

5. Mandatory CMEs for pain management and end of life care

Topic was withdrawn from agenda.

6. Identifying employers or venues in statements of charges

Topic was withdrawn from agenda.

7. Telemedicine and/or in-person exams prior to initiating treatment, including prescribing.

Board Chair Siroos Shirazi, M.D., announced that he will establish an ad hoc committee to look at a broad range of issues associated with telemedicine. He said the establishment of the committee is not related to any pending investigation by the Board.

8. Non-disclosure of required information on license applications

Amy Van Maanen reported that the Licensure committee discussed issues relating to the non-disclosure of required information on license applications. She provided a report on the total number of non-disclosure incidents over the past four years

9. Not on the Agenda

Russell Bardin reported on his participation in a health professions investigator training/certification conference in Nashville July 27-30, 2010. He said all boards are dealing with budget problems as states cut funding or restrict spending. He said many boards are overwhelmed by the burgeoning number of drug cases.

G. Iowa Physician Health Program

A new report for the Board shows various demographics (specialty area of practice, gender, age, diagnosis, etc.) of the program's participants. Board Chair Siroos Shirazi, M.D., asked that each category of the report include a percentage comparison to the total number of physicians practicing in Iowa.

H. Legal Update

Theresa Weeg reported there are four Board cases in the court system at this time. She noted there are several contested case hearings scheduled over the next few months.

I. FYI/Articles

Iowa Naturopathic Medicine, 7/20/10.

A presentation to the Board regarding naturopathic medicine was made to the Board in December 2009. Additional materials were recently received for the Board's review. The Iowa Naturopathic Physicians Association would like to address the Board again in October. The association is seeking legislation to license and allow the practice of naturopathy in Iowa.

J. Licensure Committee Report

The Licensure Committee approved six permanent licenses, one temporary license, and one resident license and provided guidance on licensure options for one applicant.

Amy Van Maanen sought guidance from the Board regarding medical services that can be performed by a medical student – when a physician is present and when the student is alone.

Also, the Board was requested to review an office guidance on how to handle discrepancies on applications. The

Board approved the guidance in November 2007. A review to determine what needs to be looked at regarding application questions and instructions on how to answer the questions was also addressed. This will be discussed at a later time.

Van Maanen reported on her recent meeting at the Federation of State Medical Boards. The meeting was an update on the federation's uniform application for licensees. The Iowa Board will use the application once the new database is online.

The meeting was adjourned at 2:08 p.m.

These minutes were recorded by Teena Turnbaugh, secretary.