



Fields of Opportunities

STATE OF IOWA

TERRY BRANSTAD, GOVERNOR
KIM REYNOLDS, LT. GOVERNOR

IOWA BOARD OF MEDICINE
MARK BOWDEN, EXECUTIVE DIRECTOR

IOWA BOARD OF MEDICINE April 7-8, 2016, BOARD MEETING

OPEN MINUTES

THURSDAY, APRIL 7, 2016:

MEMBERS PRESENT: Hamed Tewfik, M.D., Chair
Allison Schoenfelder, M.D., Vice Chair
Ronald Cheney, D.O., Secretary
Julie Carmody, M.D.
Diane Clark
Diane Cortese
Mary Jo Romano
Kyle Ulveling, M.D.
Charles Wadle, D.O.

MEMBERS ABSENT: None

STAFF PRESENT: Mark Bowden, Executive Director
Kent Nebel, Director of Legal Affairs
John Olds, M.D., Medical Advisor
Brandi Allen, Investigator
Aaron Kephart, Investigator
Cathy McCullough, Investigator
Dave McGlaughlin, Investigator
Mary Knapp, Monitoring Coordinator
Shantel Billington, Monitor
Natalie Sipes, Director of Licensure
Julie Bussanmas, Assistant Attorney General
Jordan Esbrook, Assistant Attorney General

At 11:18 a.m., on a motion by Charles Wadle, D.O., and a second by Diane Clark, all members present voted to meet in closed session pursuant to Iowa Code Sections 21.5(1)(c), 21.5(1)(d) and 21.5(1)(f) to discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent, whether to initiate licensee disciplinary proceedings and discuss the decision to be rendered in a contested case. Julie Carmody, M.D., Ronald Cheney, D.O., Diane Clark, Diane Cortese, Mary Jo Romano, Allison Schoenfelder, M.D., Hamed Tewfik, M.D., Kyle Ulveling, M.D., and Charles Wadle, D.O., all voted aye in a roll call vote to approve the motion.

At 3:02 p.m., on a motion by Diane Clark and a second by Kyle Ulveling, M.D., the Board

voted to meet in an open session.

FRIDAY, APRIL 8, 2016:

OPEN SESSION / PUBLIC MEETING:

MEMBERS PRESENT: Hamed Tewfik, M.D., Chair
Allison Schoenfelder, M.D., Vice Chair
Ronald Cheney, D.O., Secretary
Julie Carmody, M.D.
Diane Clark
Diane Cortese
Mary Jo Romanco
Kyle Ulveling, M.D.
Charles Wadle, D.O.

MEMBERS ABSENT: None

STAFF PRESENT: Mark Bowden, Executive Director
Kent Nebel, Director of Legal Affairs
John Olds, M.D., Medical Advisor
Brandi Allen, Investigator
Aaron Kephart, Investigator
Cathy McCullough, Investigator
Dave McGlaughlin, Investigator
Shantel Billington, Enforcement Monitor
Natalie Sipes, Director of Licensure
Chrissy Greco, Assistant to Executive Director
Julie Bussanmas, Assistant Attorney General
Jordan Esbrook, Assistant Attorney General\

At 8:11 a.m., Hamed Tewfik, M.D., Chair, called the meeting to order.

**PUBLIC IN
ATTENDANCE:**

Ashley Mayrose	Iowa Association of Oriental Medicine and Acupuncture
Mary LaMar	Iowa Association of Nurse Anesthetists
Abby Bailze	Achieving Maximum Potential
Aleks Vugieru	Associated Press
Alex Anderson	
Alex Bare	State of Iowa Youth Advisory Counsel
Andrew Ounn	State of Iowa Youth Advisory Counsel
Anna Ferris	
Ashley Taylor	Iowa Court Appointed Special Advocates

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Betsy Penisten	State of Iowa Youth Advisory Counsel
Bradie Dye	Iowa Court Appointed Special Advocates
Chuck Hurley	The Family Leader
Connor Johnson	Waukee High School Gay Straight Alliance
David Ehmoke	State of Iowa Youth Advisory Counsel
David Sickelka	Interstate Faith Alliance of Iowa
Denise Rash	National Association of Social Workers
Diane Burkert	
Donna Redwing	One Iowa
Doug Struck	Iowa Physical Therapy
Erica Barz	One Iowa
Evelyn Robertson	Achieving Maximum Potential
Gary Moore	
Jan Reinicke	Iowa Safe Schools
Jarrett Rosenberry	One Iowa
Jennifer Putz	
Jessica Brown	Drake University Rainbow Union
Keenan Crow	One Iowa
Kevin True-Funk	Iowa Court Appointed Special Advocates
Kristin Clark	Interstate Faith Alliance of Iowa
Kyle Stratton	Drake University Rainbow Union
Leah McWilliams	Iowa Osteopathic Medical Association
Lee Rouse	WHO - TV 13
Linda Heusi	University of Iowa
Marc Fink	Iowa Department of Public Health
Maria McDaniel	
Mark Turnage	Iowa Safe Schools
Matt Hanlon	Social Worker
Matty Smith	Iowa Court Appointed Special Advocates
Megan Bendixen	Iowa Medical Society
Melanie Steinhart	Iowa Youth Congress
Mike Mendenhall	State of Iowa Youth Advisory Counsel
Mike Robinson	
Nate Monson	Iowa Safe Schools
Rekha Basu	Des Moines Register
Reverend Liz Colton	United Church of Christ
Robin White	Transformation Iowa
Rod Boshart	Cedar Rapids Gazette
Ryan McDaniel	Iowa Youth Congress
Sarah Johnson	Department of Human Rights
Stormy O'Brink	Transformative Healing
Susan Reynolds	Iowa Department of Public Health
Timothy Foley	State of Iowa Youth Advisory Counsel
Tara Djuanovic	State of Iowa Youth Advisory Counsel

Hamed Tewfik, M.D., chair, called the public session to order at 8:11 a.m. A roll call was taken to establish a presence of a quorum of the Board. The following are minutes on agenda items:

Opportunity for public comment

No comments made at this time.

Board minutes for consideration of approval

- On a motion by Kyle Ulveling, M.D., seconded by Mary Jo Romanco, the Board unanimously approved open and closed minutes of the February 4-5, 2016, Board meeting.
- On a motion by Allison Schoenfelder, M.D., seconded by Diane Clark, the Board unanimously approved the open minutes of the, March 3, 2016, teleconference meeting.

Chair's report

Dr. Tewfik spoke briefly on how Board members work so hard on public safety to ensure high quality of care for Iowans as well as their collaboration with all other allied health care professional regulatory boards to accomplish the same. He then turned the discussion over to Mark Bowden, executive director.

Mr. Bowden welcomed new staff member Chrissy Greco and discussed the job posting for the director of investigations and compliance (chief investigator) previously held by Russell Bardin.

Executive Director's report

Mark Bowden's report included the following information:

- Governor Branstad's appointments to the Board, effective May 1.
 - Ronald Kolegraff, M.D., of Milford, is a surgeon. He will succeed Robert Bender, M.D., who left the Board in June 2014.
 - Diane Cortese, Urbandale, is reappointed to a second three-year term as a public member of the Board.
 - KellyAnn Light-McGroary, M.D., of Solon, is an internist specializing in cardiovascular disease, hospice and palliative medicine. She will succeed Julie Carmody, M.D., Clive, whose term expires April 30.
 - The Board ask the Governor to consider the appointment of a family practice physician or a physician specializing in obstetrics and gynecology to succeed Allison Schoenfelder, M.D., Akron, whose term expires April 30. The Governor's appointment is expected to be made in the next week to 10 days.
 - New Board member orientation will be held in May.
- Announced new Board staff and open positions.
 - Chrissy Greco of Des Moines has been hired as assistant to the executive director. Ms. Greco was the office manager for Innovative Counseling and Consulting of Des Moines and previously worked as a legal secretary for several law firms in

Des Moines. She earned an associate of arts degree in science from Des Moines Area Community College. She joined the staff on March 25.

- Applications for the position of director of investigations and compliance (chief investigator) will be accepted until April 13. Applicants must apply through the Iowa Department of Administrative Services' state employment job site. The goal is have someone hired by July 1, 2016.
- Federation of State Medical Boards' annual meeting April 28-30 in San Diego.
 - Hamed Tewfik, M.D., will be the Board's voting delegate at the FSMB's annual meeting April 28-30 in San Diego, CA. Other Board members and staff scheduled to attend this meeting are public members Diane Clark and Mary Jo Romanco, Executive Director Mark Bowden, Legal Director Kent Nebel and Licensure Director Natalie Sipes. Staff members Amy Van Maanen and Emily Zalasky, who work with the agency's physician health program, will attend the Federation of State Physician Health Programs in San Diego. This meeting coincides with the FSMB meeting.

Administrative rules

- **Proposed for adoption - Administrative Medicine License, ARC2359C.** This rulemaking amends 653 IAC Chapters 9 and 11 to implement 2015 Iowa Acts, Senate File 276, which creates a license for the administrative, non-clinical practice of medicine. On a motion by Diane Clark and a second by Hamed Tewfik, M.D., the Board voted to adopt and file ARC2359C. The amendments are scheduled to become effective June 15.
- **Proposed for adoption - General updates in medical licensure rules, ARC2360C.** This amendment to 653 IAC Chapter 9 is a result of the Board's continuing review of its administrative rules. On a motion by Allison Schoenfelder, M.D., and a second by Kyle Ulveling, M.D., the Board voted to adopt and file ARC2360C. This amendment is scheduled to become effective June 15.
- **Notice of Intended Action.** This is an amendment to 653 IAC Chapter 13.2(8), Pain management resources. The amendment would add the Centers for Disease Control and Prevention's Guideline for prescribing opioids for chronic pain to the Board's recommended resources for physicians who treat and manage patients with chronic pain. On a motion by Allison Schoenfelder, M.D., and a second by Diane Clark, the Board approved a notice of intended action to amend the subrule as presented.

Acupuncture

A notice of intended action to amend 653-IAC Chapter 17 was approved by the Board in October 2015. The amendments update licensure-related aspects of the chapter on acupuncture and provide more definitions of acupunctural services. The Governor's Office asked the Board to terminate the rulemaking in December 2015 due to a concern that one proposed definition may have expanded the practice of acupuncture beyond the definition in Iowa Code 148E. Board staff subsequently met with the Governor's Administrative Rules Review Coordinator to review the concerns, and on January 14, 2016, the Board voted to re-notice the amendments, addressing concerns raised by the Governor's Office. The Governor's Office continues to review the rulemaking and has not released it for publication in the Iowa Administrative Bulletin, a prerequisite for the formal process to adopt amendments to an administrative rule. The rulemaking on acupuncture comes at a time when the Iowa Association of Oriental Medicine and

Acupuncture (IAOMA) has challenged the Iowa Board of Physical and Occupational Therapy, which has allowed its licensees to perform an invasive treatment called “dry needling.” IAOMA sought an order from the physical therapy board, asking for a declaration that “dry needling” is acupuncture and is not in the scope of practice of physical therapists. The physical therapy board subsequently determined “dry needling” is within the scope of practice of a physical therapist, and IAOMA is seeking a judicial review of the declaratory order.

A lobbyist for the Iowa Physical Therapy Association has expressed concern to the Governor’s Office that the Board of Medicine’s rulemaking to update 653 IAC Chapter 17 has some bearing on physical therapists’ practice of “dry needling.” Doug Struyk, a lobbyist for the Iowa Physical Therapy Association, was in attendance at today’s meeting (April 8) and spoke to the Board of Medicine about the declaratory order on “dry needling.”

Ashley Mayrose, a representative of IAOMA, requested the Board of Medicine to file an amicus brief in IAOMA’s appeal of the physical therapist board’s declaratory order.

The Board of Medicine did not take action on the request for amicus brief. However, Chair Tewfik asked Mr. Struyk to provide information on the curriculum at Iowa physical therapist schools. The information will be taken under considered by the Board as it reviews issues raised concerning the practice of “dry needling” by physical therapists.

Update on comprehensive and ongoing review of all rules, pursuant to Iowa Code 17A.7(2)

Mr. Bowden briefed the Board on the mandatory, comprehensive review of administrative rules. The review must be completed by July 1, 2017. He will provide a final schedule of the review at the June meeting.

Petition to adopt administrative rules relating to sexual orientation change practices

An oral presentation was given by Timothy Foley and Alex Bare of the State of Iowa Youth Advisory Counsel and Nate Munson from Iowa Safe Schools of Iowa in regard to their petition to prohibit sexual orientation change efforts on individuals under age 18. Additional speakers included Jennifer Putz, Robin White of Transformation Iowa, Denise Rash of National Association of Social Workers, Chuck Hurley of The Family Leader, Donna Redwing of One Iowa, and Pastor David Sickelka of Interstate Faith Alliance of Iowa.

The petition for rulemaking was received by the Board on February 23. Kent Nebel, Director of Legal Affairs, advised that the Board had 60 days from receipt of the petition to either accept the petition and commence rulemaking or deny it. Because the Board has not studied or reviewed the issue, Nebel said another option would be to immediately deny the petition, but establish a subcommittee to study the issue and meet stakeholders, and then report to the Board.

On a motion by Allison Schoenfelder, M.D., and a second by Mary Jo Romanco, the Board voted to deny the petition for rulemaking, not on its merits but on the desire to create a subcommittee to study the issue and report to the Board. Voting in favor of the motion were Diane Clark, Hamed Tewfik, M.D., Ronald Cheney, D.O., Allison Schoenfelder, M.D., Diane Cortese, Mary Jo Romanco and Kyle Ulveling, M.D. Voting against the motion was Charles Wadle, D.O., who did not believe the issue should be taken up by the Board at this time.

Interstate Medical Licensure Compact

Diane Clark, an Iowa commissioner on the Interstate Medical Licensure Compact Commission, spoke briefly about the Commission's work, the need to identify funding sources, and Iowa's role as a pilot state for the expedited licensure process, which is expected to start in the next six to eight months.

Judicial review of Board cases and related cases

Julie Bussanmas, an assistant attorney general, briefed the Board on six cases under judicial review in district and appellate courts:

- **Butt v. BOM, No. 15-1201** – District Court upholds Board's decision to suspend physician's license. Appealed to Supreme Court. Briefing completed. Case will be decided without oral argument.
- **Rabi v. BOM (challenging contested case decision)** – Brief has been filed on Board's behalf asking the court to affirm the Board's decision. Awaiting decision. Case is continued pending resolution of request for reinstatement at board level. Rabi has asked for a continuance pending consideration of matters at agency level. Status conference due to Court on April 15th.
- **Rabi v. BOM (challenge to decision reinstating license)** – Newly filed appeal. A motion to dismiss was filed on behalf of Board on 1/28. Rabi asked for a continuance pending consideration at agency level.
- **Risk v. BOM – (challenging Board's denial of his request for rehearing)** Answer filed. Risk filed his brief on 11/24. Board's brief was due 12/9. District Court affirmed the Board's decision and instructed Risk to go to the Board through normal process to ask that restriction is lifted. Risk filed an appeal with Supreme Court. Awaiting briefing schedule. Briefing in process.
- **Fleming v. BOM, No. 14-0975** – Appendix filed. Final briefs filed. Awaiting decision. The court accepted case without oral argument. Awaiting decision.
- **Kristi Ann Cronin v. BOM, No. 02641 LAC1008871.** District Court (Marshall Co.) dismissed the civil petition.

FTC v. North Carolina Medical Board

Ms. Bussanmas, reported she and others in her office are monitoring state reactions to the U.S. Supreme Court's opinion concerning anti-trust activities of state licensure boards.

Federation of State Medical Boards

Hamed Tewfik, M.D., will be the Board's voting delegate at the Federation of State Medical Boards' annual meeting April 28-30 in San Diego, CA. Other Board members and staff scheduled to attend this meeting are public members Diane Clark and Mary Jo Romano, Executive Director Mark Bowden, Legal Director Kent Nebel and Licensure Director Natalie Sipes. Van Maanen and Zalasky will attend the Federation of State Physician Health Programs' annual meeting, which coincides with the annual FSMB meeting.

Iowa Physician Health Committee

Ms. Van Maanen, coordinator of the Iowa Physician Health Program (IPHP), provided an update on the program including the new logo and her visit to Chicago to tour the Positive Sobriety Institute. She also spoke about the in-person visits that she and IPHP case manager Zalasky will conduct with some program participants. These visits are in lieu of second- and fourth-year participants appearing before the Iowa Physician Health Committee. Program participants are under five-year contracts and they are required to meet with the Committee or staff annually.

Committee Reports

Licensure Committee - This committee reviews applications for licensure, renewal and reinstatement and licensure policies and issues. Most applications are approved by Board staff, but potentially problematic applications are reviewed by the committee, which determines whether a license should be issued, renewed or reinstated.

Committee action:

- The committee reviewed 15 medical licensure applications. Seven permanent licenses were issued, one resident license was issued, and three permanent licenses were reinstated. Four applications were left open to obtain further information or allow the applicant to withdraw.
- The committee recommended the Board approve a waiver of Iowa Administrative Code 653-9.7(1) “e” (1), which requires applicants to pass the U.S. Medical Licensure Examination’s 3-step sequence within a 10-year time limit or to be certified by the American Board of Medical Specialties. The Board accepted the committee’s recommendation to waive the requirement because the applicant passed the exam sequence in 10 years and two months. Further, the applicant has been practicing in Missouri on a full and unrestricted license.
- The committee approved letters of warnings to 5 applicants who failed to provide truthful, accurate or complete information on the applications.

On a motion by Diane Clark and a second by Julie Carmody, M.D., the Board approved the Licensure Committee report.

Screening Committee - This committee reviews complaints and mandatory reports that are lower priority to determine whether investigation is warranted.

Committee action:

- The Screening Committee reviewed 29 cases.

On a motion by Kyle Ulveling, M.D., and a second by Diane Cortese, the Board voted to approve the Screening Committee report.

Monitoring Committee - This committee monitors licensees who are subject to a Board disciplinary order and require monitoring.

Committee action:

- The committee reviewed 14 physicians who are being monitored by the Board and held 2 physician appearances.

On a motion by Allison Schoenfelder, M.D., and a second by Hamed Tewfik, M.D., the Board voted to deny an application for modification and termination of probation filed by Firas Rabi, M.D.

On a motion by Allison Schoenfelder, M.D., and a second by Hamed Tewfik, M.D., the Board voted to approve the Monitoring Committee report.

Board Organization

Hamed Tewfik, M.D., made the following nominations for Board officers, effective May 1: Diane Clark, chair, Ronald Cheney, D.O., vice chair, and Kyle Ulveling, M.D., secretary. On a motion by Allison Schoenfelder, M.D., and a second by Mary Jo Romano, the Board accepted Dr. Tewfik's nominations and elected the nominees to one-year terms.

Dr. Tewfik presented certificates of appreciation of their service to Julie Carmody, M.D., and Allison Schoenfelder, M.D. Their terms expire April 30, 2016.

On a motion by Dr. Tewfik and a second by Mary Jo Romano, the Board approved the following meeting schedule for 2017: February 9-10, April 13-14, June 1-2, July 20-21, September 14-15, October 26-27, and December 14-15. The Board's scheduled teleconferences for 2017 are January 19, March 9, May 18, August 10, and November 9.