



**IOWA BOARD OF MEDICINE
AUGUST 29-30, 2013, BOARD MEETING**

OPEN MINUTES

AUGUST 29, 2013 – OPEN SESSION:

MEMBERS PRESENT: Greg Hoversten, D.O., Chair
Hamed Tewfik, M.D., Vice-Chair
Michael Thompson, D.O., Secretary
Robert Bender, M.D.
Frank Bognanno
Julie Carmody, M.D.
Diane Clark
Ann Gales
Julie Perkins, M.D.
Allison Schoenfelder, M.D.

MEMBERS ABSENT: None

STAFF PRESENT: Mark Bowden, Executive Director
Kent Nebel, Director of Legal Affairs
John Olds, M.D., Medical Advisor
Russell Bardin, Chief Investigator
Aaron Kephart, Investigator
Brandi Allen, Investigator
Cathy McCullough, Investigator
Dave McGlaughlin, Investigator
David Schultz, Investigator
James Machamer, Investigator
Jennifer Huisman, Investigator
Mary Knapp, Enforcement Monitor
Shantel Billington, Enforcement Monitor
Kari Rolls, Administrative Assistant
Julie Bussanmas, Assistant Attorney General

At 11:20 a.m., Greg Hoversten, D.O., Chair, called the meeting to order. A roll call was taken to establish a presence of a quorum of the Board.

At 11:21 a.m., on a motion by Frank Bognanno, seconded by Robert Bender, M.D., 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. Robert Bender, M.D., Frank Bognanno, Julie Carmody, M.D., Diane Clark, Ann Gales, Greg Hoversten, D.O., Julie Perkins, M.D., Allison Schoenfelder, M.D., Hamed Tewfik, M.D., and Michael Thompson, D.O., all voted aye in a roll call vote to approve the motion.

At 4:18 p.m., the Board went to recess. The closed session resumed on Friday, August 30, 2013, at 10:03 a.m.

AUGUST 30, 2013 – OPEN SESSION:

MEMBERS PRESENT: Greg Hoversten, D.O., Chair
Hamed Tewfik, M.D., Vice-Chair
Michael Thompson, D.O., Secretary
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Diane Clark
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Julie Perkins, M.D.
Allison Schoenfelder, M.D.

MEMBERS ABSENT: Robert Bender, M.D.

STAFF PRESENT: Mark Bowden, Executive Director
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Brandi Allen, Investigator
Cathy McCullough, Investigator
Dave McGlaughlin, Investigator
David Schultz, Investigator
James Machamer, Investigator
Jennifer Huisman, Investigator
Mary Knapp, Enforcement Monitor
Shantel Billington, Enforcement Monitor
Natalie Sipes, Secretary to Executive Director
Kari Rolls, Administrative Assistant
Julie Bussanmas, Assistant Attorney General

Closed session resumed at 10:03 a.m.

At 11:13 a.m., while still in a closed session, all members present voted in favor of a motion to meet in an open session. The motion was made by Ann Gales and seconded by Frank Bognanno. In open session, the Board took the following actions:

On a motion by Hamed Tewfik, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 01-2011-499 with **no formal action**.

On a motion by Hamed Tewfik, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **accept** the combined Statement of Charges and Settlement Agreement for James J. Turek, M.D., file 02-2013-177.

On a motion by Hamed Tewfik, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **accept** the combined Statement of Charges and Settlement Agreement for Lisa M. (Mofle) Aguirre, M.D., files 02-2012-259 and 02-2012-563.

On a motion by Hamed Tewfik, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **file Statement of Charges** against Subir Ray, M.D., file 02-2012-059.

On a motion by Hamed Tewfik, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **accept** the combined Statement of Charges and Settlement Agreement for John T. Golden, M.D., file 02-2011-615.

On a motion by Hamed Tewfik, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **accept** the combined Statement of Charges and Settlement Agreement for Nelson Astle, M.D., file 02-2012-445.

On a motion by Hamed Tewfik, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **accept** the combined Statement of Charges and Settlement Agreement for David D. Springer, M.D., file 02-2011-612.

On a motion by Hamed Tewfik, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **accept** the combined Statement of Charges and Settlement Agreement for John Q.A. Webb, Jr., M.D., file 02-2012-443.

On a motion by Hamed Tewfik, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **accept** the combined Statement of Charges and Settlement Agreement for Rouben Mirbegian, M.D., file 02-2012-354.

On a motion by Hamed Tewfik, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **accept** the combined Statement of Charges and Settlement Agreement for Stephen A. Cullinan, M.D., files 02-2012-604 and 02-2013-257.

On a motion by Hamed Tewfik, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **file Statement of Charges** against Luong N. Pham, M.D., file 02-2011-614.

On a motion by Hamed Tewfik, M.D., seconded Allison Schoenfelder, M.D., all Board members present voted to **leave open** file 02-2011-567.

On a motion by Hamed Tewfik, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **affirm** its original decision to **close** file 02-2012-410, **with no formal disciplinary action**.

On a motion by Hamed Tewfik, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **affirm** its original decision to **close** file 02-2012-098, **with no formal disciplinary action**.

On a motion by Hamed Tewfik, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **affirm** its original decision to **close** file 03-2012-513, **with no formal disciplinary action**.

On a motion by Hamed Tewfik, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **affirm** its original decision to **close** file 02-2010-611, **with no formal disciplinary action**.

On a motion by Hamed Tewfik, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **affirm** its original decision to **close** file 02-2011-033, **with no formal disciplinary action**.

On a motion by Julie Perkins, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **accept** the Screening Committee Report and its recommendations.

On a motion by Michael Thompson, D.O., seconded by Allison Schoenfelder, M.D., all Board members present voted to **accept** the Licensure Committee Report and its recommendations.

On a motion by Hamed Tewfik, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **accept** the Monitoring Committee Report and its recommendations.

On a motion by Frank Bognanno, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 02-2012-454 with **no formal action**.

On a motion by Frank Bognanno, seconded by Allison Schoenfelder, M.D., all Board members present voted to **leave open** file 02-2013-155.

On a motion by Frank Bognanno, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 02-2011-689 with **no formal action**.

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On a motion by Frank Bognanno, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 02-2012-340 with **no formal action**.

On a motion by Frank Bognanno, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 02-2012-578 with **no formal action**.

On a motion by Frank Bognanno, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 02-2013-182 with **no formal action**.

On a motion by Frank Bognanno, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 03-2013-108 with **no formal action**.

On a motion by Frank Bognanno, seconded by Allison Schoenfelder, M.D., all Board members present voted to **leave open** file 03-2012-433. Diane Clark recused.

On a motion by Frank Bognanno, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 02-2013-212 with **no formal action**.

On a motion by Frank Bognanno, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 02-2013-215 with **no formal action**.

On a motion by Frank Bognanno, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 02-2012-738 with **no formal action**.

On a motion by Frank Bognanno, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 03-2011-504 with **no formal action**.

On a motion by Frank Bognanno, seconded by Allison Schoenfelder, M.D., all Board members present voted to **leave open** file 02-2011-513.

On a motion by Frank Bognanno, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 02-2012-596 with **no formal action**.

On a motion by Frank Bognanno, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 02-2012-255 with **no formal action**.

On a motion by Frank Bognanno, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 02-2013-029 with **no formal action**.

On a motion by Frank Bognanno, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 02-2013-302 with **no formal action**.

On a motion by Ann Gales, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 02-2012-582 with **no formal action**.

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On a motion by Ann Gales, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 02-2012-295 with **no formal action**.

On a motion by Ann Gales, seconded by Allison Schoenfelder, M.D., all Board members present voted to **leave open** file 02-2012-217.

On a motion by Ann Gales, seconded by Diane Clark, all Board members present voted to **close** file 02-2012-237 with **no formal action**. Allison Schoenfelder, M.D., recused.

On a motion by Ann Gales, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 02-2012-579 with **no formal action**.

On a motion by Ann Gales, seconded by Allison Schoenfelder, M.D., all Board members present voted to **leave open** file 02-2012-409. Julie Perkins, M.D., recused.

On a motion by Ann Gales, seconded by Allison Schoenfelder, M.D., all Board members present voted to **leave open** file 02-2010-036.

On a motion by Ann Gales, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 02-2010-409 with **no formal action**.

On a motion by Ann Gales, seconded by Allison Schoenfelder, M.D., all Board members present voted to **leave open** file 02-2013-196.

On a motion by Ann Gales, seconded by Allison Schoenfelder, M.D., all Board members present voted to **leave open** file 02-2012-507.

On a motion by Ann Gales, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 03-2012-508 with **no formal action**.

On a motion by Ann Gales, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 03-2012-509 with **no formal action**.

On a motion by Ann Gales, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 02-2012-510 with **no formal action**.

On a motion by Ann Gales, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 02-2012-511 with **no formal action**.

On a motion by Ann Gales, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 03-2012-587 with **no formal action**.

On a motion by Ann Gales, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 03-2012-517 with **no formal action**.

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On a motion by Ann Gales, seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 03-2012-529 with **no formal action**. Frank Bognanno recused.

On a motion by Ann Gales, seconded by Allison Schoenfelder, M.D., all Board members present voted to **leave open** file 02-2010-619.

On a motion by Julie Perkins, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 02-2013-246 with **no formal action**.

On a motion by Diane Clark, seconded by Allison Schoenfelder, M.D., all Board members present voted to **leave open** file 03-2012-429. Julie Perkins, M.D., recused.

On a motion by Julie Perkins, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 01-2013-141 with **no formal action**.

On a motion by Julie Perkins, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **leave open** file 02-2013-195.

On a motion by Julie Perkins, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 02-2013-073 with **no formal action**.

On a motion by Julie Perkins, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 02-2012-718 with **no formal action**.

On a motion by Julie Perkins, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 02-2013-326 with **no formal action**.

On a motion by Julie Perkins, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **close** file 03-2012-806 with **no formal action**.

On a motion by Julie Perkins, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **leave open** file 02-2013-175.

On a motion by Julie Perkins, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **leave open** file 03-2013-410.

On a motion by Julie Perkins, M.D., seconded by Allison Schoenfelder, M.D., all Board members present voted to **leave open** file 02-2013-313.

At 11:22 a.m., the Board went to recess.

AUGUST 30, 2013 – OPEN SESSION/ PUBLIC MEETING:

MEMBERS PRESENT: Greg Hoversten, D.O., Chair
Hamed Tewfik, M.D., Vice-Chair
Michael Thompson, D.O., Secretary
Frank Bognanno
Julie Carmody, M.D.
Diane Clark
Ann Gales
Julie Perkins, M.D.
Allison Schoenfelder, M.D.

MEMBER PRESENT (VIA TELECONFERENCE):
Robert Bender, M.D.

STAFF PRESENT: Mark Bowden, Executive Director
Kent Nebel, Director of Legal Affairs
John Olds, M.D., Medical Advisor
Russell Bardin, Chief Investigator
Natalie Sipes, Secretary to Executive Director
Deb Anglin, Coordinator, Iowa Physician Health Program
Mary Knapp, Enforcement Monitor
Shantel Billington, Enforcement Monitor
Steve Ervin, Information Technology Specialist
David Schultz, Investigator
Julie Bussanmas, Assistant Attorney General
September Lau, Assistant Attorney General

PUBLIC IN ATTENDANCE:

Rita Bellis, American Civil Liberties Union of Iowa
Erin Davison-Rippey, Planned Parenthood of the Heartland
Mike Falkstrom, Planned Parenthood of the Heartland
Brenna Findley, Administrative Rules Coordinator, Governor's Office
Susan Freed, Davis Brown Law Firm
Jeanine Freeman, Iowa Medical Society
Larry Johnson, Governor's Office
Heather Jordan, WHO Radio
Cortney Kintzer, KCCI – TV
Natalie Koerber, Planned Parenthood of the Heartland
Dave Lyons, CoOpportunity Health
Leah McWilliams, Iowa Osteopathic Medical Association
Erica Shannon Stueve, legislative staff
Mike St. Clair, Americans United for Life

Greg Hoversten, D.O., chair, called the meeting to order at 1:02 p.m. Dr. Hoversten noted a quorum of the Board was present. The following items were addressed:

ARC 0891C - standards of practice for physicians who prescribe or administer abortion inducing drugs:

Dr. Hoversten opened the meeting with discussion on noticed rule ARC 0891C – standards of practice for physicians who prescribe or administer abortion-inducing drugs. A public hearing on the proposed administrative rule was held from 1 to 4:30 p.m. August 28 and the public had 35 days to submit written comments. Dr. Hoversten opened the floor for additional public comment on ARC 0891C.

Mike Falkstrom, an attorney representing Planned Parenthood of the Heartland, asked the Board to stay implementation of the rule, pending a possible judicial review of the rule, should the Board choose to vote and adopt the rule. If adopted, the rule would become effective November 6.

Chair Hoversten called for a motion to adopt ARC 0891C as published in the July 24, 2013, Administrative Bulletin. Hamed Tewfik, M.D., offered a motion to adopt the rule. The motion was seconded by Robert Bender, M.D.

Each member of the Board offered comments on the rule. Dr. Hoversten said that the Board had ample time to review all materials and comments relating to the rule. He said at each meeting the Board determines standard of care for cases that are very complex, often more complex than the ARC 0891 issue. He said under current practice at telemedicine abortion clinics in Iowa, women are being evaluated by non-physician staff members who are not properly trained and certified. He said after the patient takes the abortion-inducing drug, she is sent home to labor with serious cramping and bleeding. He said if a physician was required to be present for the medical abortion, the physician would perform the ultrasound and establish an appropriate physician-patient relationship, which would meet the standard of care. Dr. Hoversten said he would vote to adopt rule.

Hamed Tewfik, M.D., stated that the issue is not about abortion, it is about standards of care. He said when physicians adhere to standards of care, they protect the public and the patients. He said medical abortion is a serious medical procedure that requires the standards expressed in ARC 0891C.

Ann Gales was not in favor of adopting the rule as it was noticed. Ms. Gales felt a sub-committee should be appointed to further review the rule and to meet with stake holders to have more dialogue on the issue. Ms. Gales said she would vote for a rule that specifically addressed the safety concerns. She was also concerned about the reputation of the Board, due to a perception by some in the public that the Board was being hasty in adopting the rule. She said if ARC 0891C is appropriate, it would still be the right rule upon further discussion.

Diane Clark was in favor of adopting the rule, noting the importance of the physician-patient relationship and properly trained and certified staff. Ms. Clark also questioned whether or not

FDA regulations were being followed. Ms. Clark didn't believe the rule would affect physicians who use telemedicine for other medical services.

Allison Schoenfelder, M.D., acknowledged the need for regulation- Dr. Schoenfelder presented four studies to the Board. She wants to ensure that rural women to have access to both medical and surgical abortions, not just medical abortion because it is convenient. In some cases, she noted, a surgical abortion would be the appropriate procedure. She is concern that rural hospitals are not equipped to handle complications of medical abortion.

Frank Bognanno said he would vote in favor of the rule. He said a physician's interview of the patient to collect medical history, an appropriate physical examination by the physician, and a valid physician-patient relationship should be the standard of care for medical abortions. Msgr. Bognanno stated that telemedicine medical abortions performed by a physician over a webcam, with only a medical assistant present, is substandard care.

Robert Bender, M.D., felt he had adequate time to study all materials, hear comments, and consider the noticed rule. He expressed that the current practice of telemed abortion in Iowa does not meet basic standards of care for the patient. He said practices at the telemed abortion clinics are not consistent with FDA standards for administration of the abortion-inducing drugs. He said he would vote to adopt the rule as presented.

Julie Perkins, M.D., said she was not able to attend the public hearing, but has read all comments submitted about ARC 0891C. Dr. Perkins agreed with the rule as proposed for all the reasons previously stated by other Board members. Dr. Perkins didn't feel current practice established an appropriate physician-patient relationship

Julie Carmody, M.D., said she is in favor of the rule. Dr. Carmody felt that safety in care should be as important as access and cost of care. She said an appropriate physical examination by the physician is needed to assess risk in order to decrease complications. She said the rule expects that when medical abortions are performed in Iowa, they must be done in the safest way possible.

Michael Thompson, D.O., said he understood the issues and concerns about ARC 0891C. He said that many issues the Board addresses deal with public safety, and these are addressed quickly. He said he had concerns with how fast the Board acted on this issue. Dr. Thompson expressed concern about the training of clinic staff members who perform the ultrasound scan. He also stressed that the physician has a responsibility to ensure that patients have access to emergency care if there are complications from the medical abortion. Dr. Thompson expressed that abortion is legal in Iowa and the Board's rule does not make abortion illegal. He said the rule is about protecting the health and safety of rural Iowa women and nothing else.

Dr. Hoversten moved for a roll call vote. On a second by Dr. Tewfik, all members voted in favor of a roll call vote of notice rule ARC 0891C – standards of practice for physicians who prescribe or administer abortion-inducing drugs.

Dr. Hoversten then moved that the Board adopt and file ARC 0891C as published in the July 24, 2013, Administrative Bulletin. His motion was seconded by Dr. Tewfik. Dr. Hoversten clarified that a "yes" would be a vote to adopt the rule and a "no" would be vote against adoption. Those

voting “yes” were Greg Hoversten, D.O., Robert Bender, M.D., Frank Bognanno, Julie Carmody, M.D., Diane Clark, Julie Perkins, M.D., Allison Schoenfelder, M.D., and Hamed Tewfik, M.D. Those voting “no” were Ann Gales and Michael Thompson, D.O.

The adopted rule will be published in the Administrative Bulletin on October 2 and it will become effective November 6.

Pursuant to Iowa Administrative Code 653-Chapter 1.8, the Board will issue a written statement for the principal reasons for and against the rule, incorporating reasons for overruling considerations urged against the rule. This statement will be published on the Board’s website by September 28, 2013.

The Board went to recess at 1:52 p.m. Robert Bender, M.D., left the conference call. The meeting resumed at 2:00 p.m.

Virtuwell:

CoOpportunity Health representative Dave Lyons was asked to appear before the Board to present more information about an 18-month pilot project for Virtuwell, an Internet-based diagnostic and treatment health consultation service that would be offered in Iowa. Mr. Lyons provided an overview of Virtuwell at the June 28, 2013, Board meeting. He said the pilot project would provide a clinical review of safety and effectiveness, an ongoing review of consumer satisfaction, and a cost-care analysis. He said reports on the pilot project could be made to the Board at six months, twelve months, and at the conclusion of the pilot. Mr. Lyons said the pilot project will not be undertaken at this time. He said he needs to meet with other state regulatory boards (Pharmacy, Nursing, Physician Assistants) to review the project and to determine if there are legal issues to operate the project in Iowa.

Iowa Physician Health Program:

Deb Anglin, coordinator of the Iowa Physician Health Program, gave a brief statistical report. The IPHP is currently working with 79 individuals in the program, with 68 under contract.

Out-of-State Disciplinary Actions Involving Inactive Iowa Medical licenses:

On a motion by Michael Thompson, D.O., and a second by Ann Gales, the Board voted unanimously to accept an August 7, 2013, memorandum, “Out-of-State Disciplinary Actions – Inactive Iowa Medical Licenses.” Kent Nebel, Director of Legal Affairs, said the memorandum provides guidelines on responding to reports of physicians who no longer have an active Iowa license, but have been disciplined in another jurisdiction.

Julie Carmody, M.D., left the meeting at 2:36 p.m.

Medical Malpractice and Lawsuit Claims:

Russell Bardin, Chief Investigator, reviewed the Board’s guidelines for handling reports of medical malpractice. Current procedure identifies three categories of medical malpractice that must be investigated; death, wrong-sided surgery, and loss of a limb or organ. He said the Board

may want to add a fourth category -- neurological damage causing either mental or physical function issues.

Recent national studies show that medical malpractice cases have been trending down in the past five years. The Board's investigations are in line with that trend, having seen a continuous drop since 2009. Forty-two percent of medical malpractice cases received by the Board in 2011 and 2012 were investigated, and approximately 25 percent of those cases resulted in issuance of letters of education or of warning.

Mark Bowden, Executive Director, shared two additional statistical reports relating to medical malpractice lawsuits and claims: Public Citizen's report on medical malpractice payments and the State Court Administrator's report on malpractice lawsuits filed in Iowa. The Public Citizen report shows a decline nationwide in the amount of awards and settlements in malpractice lawsuits. The State Court Administrator's report shows a precipitous drop in lawsuit filings. He noted that the Board looks at the size of awards and settlements paid as one factor in determining if a lawsuit should be investigated. Mr. Bowden said the Board's new data base will help staff determine if the decline in lawsuits is offset by a possible increase in settlements paid in lieu of filing a lawsuit.

Legal Update on Judicial Review of Board Cases and Related Cases:

The Board received updates from Assistant Attorneys General Julie Bussanmas and September Lau on Board cases under judicial review. *(Asterisk indicates case is pending in the Supreme Court/Court of Appeals. Other cases are in district court.)*

1. **Adel Al-Jurf, M.D.*** -- The Board's decision was affirmed by the Court of Appeals on July 24, 2013. This case will come back to the Board, making it a final decision.
2. **Amjad Butt, M.D.*** -- Application for further review denied. The Court of Appeals decision is the final decision. The case will come back before the Board for review.
3. **Mark Collison, M.D.*** -- Briefs have been submitted to the court and the Board is waiting to see if oral argument is scheduled.
4. **Donna DeLouis, D.O.** -- Briefs have been submitted and a hearing on judicial review at the District court level is scheduled for September 6, 2013.
5. **Robert Tobin, M.D.*** -- Briefs have been submitted to the court and the Board is waiting to see if oral argument is scheduled.
6. **Fawad Zafar, M.D.** -- Briefs have been submitted.
7. **Doe v. Iowa Board of Medicine** -- A physician under investigation by the Board filed a motion with the District Court seeking intermediate judicial review that would bar this Board from filing charges against him, claiming the Board doesn't have jurisdiction because his license has been inactive for 10 years and his conduct doesn't affect Iowa patients.
8. **Wendy R. Smoker, M.D.** -- This case was placed back on the agenda to discuss how the Court's decision could affect the Board going forward when investigating cases involving allegations of substance abuse that don't occur in a clinical setting. Kent Nebel, Director of Legal Affairs, advised the Board to gain more material to support the investigative process in the future, even when historical evidence is present.

9. Iowa Supreme Court decision on administrative rules permitting advanced nurse practitioners to supervise fluoroscopy.

Craig Clark, M.D., a radiologist in the Cedar Rapids area, submitted a letter on July 29, asking the Board to make an effort to make corrections to the Supreme Court's decision which allows advanced nurse practitioners to supervise fluoroscopy. Many physician professionals are upset with the decision and would like the Board to ask the Court to reconsider its decision; others would like the Court to clarify inaccuracies. Kent Nebel, Director of Legal Affairs, does not believe the Board has enough information to provide clarification to correct those inaccuracies.

Jeanine Freeman, Iowa Medical Society, shared that IMS was a petitioner in this case and while they were very disappointed in the Supreme Court ruling, they chose not to respond to the decision, accepting the Supreme Court decision as final.

The Board confirmed its earlier pronouncement not to formally react to the Court's decision.

Administrative Rules for Consideration of Adoption:

The following rules were considered for adoption:

ARC 0889C – Amend IAC 653 – Chapter 1 to limit Board member's term as Board chairperson. A public hearing for the rule was held August 13. Hamed Tewfik, M.D., spoke against adoption of the rule. Dr. Tewfik felt that experience is gained beyond one year and that placing a term limit is unnecessary because a vote is required annually to select the chair. Dr. Tewfik asked members to consider all the implications of adopting this rule. The Board chose to table voting on the rule until the October 25, 2013, Board meeting.

ARC 0943C – Amend IAC 653 – Chapters 8, 9, and 10 adjust various fees. A public hearing was held August 27. This rule be considered for final adoption at the October 25, 2013, Board meeting as a part of the Board's annual review of fees.

ARC 0890C – Amend IAC 653 – Chapter 13 to rescind an outdated rule on physician supervision of pharmacists who administer adult immunizations. This rule change is being made to comply with state law and a public hearing wasn't necessary. On a motion made by Ann Gales and a second by Julie Perkins, M.D., the Board voted unanimously to adopt and file the amendments.

Board Minutes for Consideration of Approval:

On a motion by Ann Gales, and a second by Hamed Tewfik, M.D., the Board unanimously approved the following minutes as presented:

- June 27-28, 2013, Board meeting (open & closed)
- July 11, 2013, teleconference (open & closed)
- July 25, 2013, teleconference (open & closed)
- August 8, 2013, teleconference (open & closed)

Licensure & Licensure Committee Report:

Michael Thompson, D.O., reported the Licensure Committee granted 5 permanent licenses and 1 temporary license, reinstated 1 permanent license, and left 1 application open to draft a consent agreement.

Reports & Articles:

Mark Bowden, Executive Director, shared a brief summary of two articles with the Board.

Thousands of doctors practicing despite errors, misconduct, by Peter Eisler and Barbara Hansen, USA TODAY, August 21, 2013.

FSMB Model Policy on Use of Opioid Analgesics in the Treatment of Chronic Pain, July 2013.

The meeting adjourned at 3:16 p.m.

These minutes are respectfully submitted by Natalie Sipes, Secretary to the Executive Director and Kari Rolls, Administrative Assistant.