

December 19, 2018

Summary of the December 13-14, 2018, Board Meeting

This is a summary of the December 13-14, 2018, meeting of the Iowa Board of Medicine.

Total Cases Reviewed: The Board reviewed 118 cases.

New Investigative Cases: The Board reviewed 51 new investigative cases.

Statement of Charges: Upon a determination by the Board that probable cause exists to take formal disciplinary action against a licensee, the Board may file a Statement of Charges which contains the allegations of the Board.

The Board approved 1 Statement of Charges.

1. An Iowa-licensed physician who formerly operated vein clinics in multiple locations in Minnesota and currently operates a vein clinic in St. Joseph, Missouri, had a Statement of Charges filed by the Board on December 14, 2018. On June 12, 2017, the physician entered into a Stipulation and Order for Voluntary Surrender with the Minnesota Board of Medical Practice (Minnesota Board). The Minnesota Board alleged that the physician violated the laws and rules governing the practice of medicine in Minnesota when he engaged in unethical conduct; unprofessional conduct; fee splitting and abusive or fraudulent billing practices. The Minnesota Board alleged that the physician improperly delegated the performance of patient evaluations and development of treatment plans to nurse practitioners and physician assistants without proper physician consultation and performed vein procedures without properly evaluating patients. The Minnesota Board alleged that the physician improperly performed vein procedures on patients during multiple treatment sessions (unbundling) in order to bill at a higher reimbursement rate. The Minnesota Board alleged that the physician performed excessive and unnecessary vein procedures. The Minnesota Board alleged that the physician entered into a fee splitting arrangement with another clinic to fraudulently bill health insurers. Under the terms of the June 12, 2017, Stipulation and Order for Voluntary Surrender, the physician voluntarily surrendered his Minnesota medical license to resolve the matter. Under the terms of the December 14, 2018, Statement of Charges, the Board alleged that the physician violated the laws and rules governing the practice of medicine in Iowa when he was disciplined by, and/or entered into a voluntary agreement with, the licensing authority of another state. A hearing is scheduled on February 22, 2019.

Combined Statement of Charges and Settlement Agreement: If the Board determines that probable cause exists for formal disciplinary action against a licensee, the Board and the licensee may enter into a combined Statement of Charges and Settlement Agreement to resolve the matter. The combined Statement of Charges and Settlement Agreement contains the Board's allegations and the disciplinary sanctions.

The Board approved 2 Combined Statement of Charges and Settlement Agreements.

1. An Iowa-licensed physician who practices internal medicine in Bettendorf, Iowa, entered into a combined Statement of Charges and Settlement Agreement with the Board on December 14, 2018. The Board alleged that the physician failed to provide appropriate medical care to multiple patients in Bettendorf, Iowa, between 2002 and 2015, including failing to provide appropriate chronic pain management to multiple patients. Under the terms of the December 14, 2018, combined Statement of Charges and Settlement Agreement, the Board issued the physician a Citation and Warning and ordered him to pay a \$5,000 civil penalty. The Board also prohibited him from prescribing, administering or dispensing controlled substances for the treatment of chronic pain. The physician also agreed to complete a Board-approved comprehensive clinical competency evaluation and medical record keeping course. The Board also placed the physician on probation for a period of five years subject to prescribing audits and a practice monitoring plan.
2. An Iowa-licensed physician who practices emergency medicine in Dubuque, Iowa, entered into a combined Statement of Charges and Settlement Agreement with the Board on December 14, 2018. The Board alleged the physician violated appropriate professional boundaries, engaged in improper prescribing and failed to establish an appropriate physician-patient relationship, including failing to perform appropriate examinations and failing to maintain appropriate medical records, in violation of the laws and rules governing the practice of medicine in Iowa. The Board alleged the physician prescribed multiple medications including antibiotics, a corticosteroid and an antidepressant, and completed a Medical Examination Report that was submitted to the Wisconsin Department of Transportation, for a subordinate female coworker with whom he was having a sexual relationship, without establishing an appropriate physician-patient relationship, including failing to perform appropriate examinations and failing to maintain appropriate medical records, in Dubuque, Iowa, between October 2015 and February 2016. At the direction of the Board, The physician completed a comprehensive professional boundaries evaluation on June 7-10, 2018. Under the terms of the December 14, 2018, combined Statement of Charges and Settlement Agreement, the Board issued the physician a Citation and Warning and ordered him to pay a \$5,000 civil penalty. The physician also agreed to complete a Board-approved professional boundaries program. The Board also placed the physician on probation for a period of three years subject to professional boundaries counseling and Board monitoring.

Consent Agreement: The Board may grant an Iowa medical license subject to the terms and conditions of a Consent Agreement when appropriate.

The Board approved 1 Consent Agreement.

1. An applicant for a permanent Iowa medical license entered into a Consent Agreement with the Board and was granted a permanent Iowa medical license on December 14, 2018. On June 24, 2004, the Florida Board of Medicine (Florida Board) entered into a Consent Agreement with the applicant. The Florida Board alleged that on or about June 12, 2003, the applicant performed a wrong-site procedure when he misread a chest x-ray, incorrectly diagnosed a right pleural effusion and improperly placed a chest tube on the wrong side. The Florida Board issued the applicant a Reprimand and ordered him to pay a \$10,000 fine and complete a medical records course, 5 hours of continuing medical education in the area of medical ethics and 200 hours of community service. Under the terms of the December 14, 2018, Consent Agreement, the Iowa Board granted the applicant a permanent Iowa medical license and issued him a Citation and Warning for being disciplined by the Florida Board.

Confidential Evaluation Order: The Board may issue a confidential evaluation order requiring a licensee to complete a Board-approved evaluation if the Board determines that a licensee may suffer from substance abuse; a mental health condition; a physical condition; or has engaged in sexual misconduct or unprofessional conduct or has demonstrated evidence of professional incompetence.

The Board issued 4 Confidential Evaluation Orders due to the following concerns:

1. Concerns that a physician engaged in a pattern of unprofessional conduct and/or disruptive behavior in the practice of medicine.
2. Concerns that a physician's treatment of a patient with an actively bleeding ulcer demonstrated evidence of professional incompetence.
3. Concerns that a physician may suffer from substance abuse and/or a health condition which impairs the physician's ability to practice medicine with reasonable skill and safety.
4. Concerns that a physician engaged in a pattern of sexual misconduct and/or sexual harassment in the practice of medicine.

Confidential Letters of Warning or Education: When the Board determines that probable cause does not exist to take formal disciplinary action against a licensee, the Board may send a confidential, non-disciplinary, letter to the licensee expressing concerns and requesting that the licensee take corrective action, including further education.

The Board voted to issue thirteen (13) confidential Letters of Warning or Education due to the following areas of concern:

1. Concerns about a physician's evaluation, diagnostic testing and treatment of a patient with colitis.
2. Concerns about a surgeon's use of outpatient duragesic pain medication patches following surgery.
3. Concerns that a physician failed to timely respond to a random audit of the continuing medical education required for renewal of an Iowa medical license.
4. Concerns that a physician used the signature of a co-worker to obtain asthma inhalers and erectile dysfunction medications via a mail-order company for the physician's own use.
5. Concerns that a physician prescribed medications to his ex-wife without performing appropriate examinations and without maintaining appropriate medical records using an outdated prescription pad.
6. Concerns that a physician prescribed medications to his domestic partner without performing appropriate examinations and without maintaining appropriate medical records.
7. Concerns about a physician's treatment of a patient who experienced significant complications following bilateral knee replacement surgery.
8. Concerns that a physician failed to respond to pages and failed to go to the hospital when he was on-call.
9. Concerns about a surgeon's use of outpatient duragesic pain medication patches following surgery.
10. Concerns about a physician's evaluation, diagnostic testing and treatment of a patient with sarcoidosis.
11. Concerns that a physician performed an unnecessary thyroidectomy on a patient resulting in permanent injury.
12. Concerns that a physician noted ovaries on a CT scan report when the patient's ovaries had been removed.
13. Concerns that a physician failed to notify a patient regarding a mass on diagnostic testing.

Monitoring Committee: The Monitoring Committee oversees licensees who are subject to a disciplinary order and require monitoring.

The committee reviewed 6 physicians who are being monitored by the Board and held 2 appearances.

Screening Committee: The Screening Committee reviews cases that are lower priority to determine whether investigation is warranted.

The committee reviewed 25 cases, closed 22 cases and left 3 cases open for further investigation.

Licensure Committee: The Licensure Committee reviews initial applications, renewals, and reinstatements and licensure policies. Most applications are approved by staff without committee review. However, some concerns identified during the review process must be reviewed by the committee to determine whether a license should be granted, renewed or reinstated.

The committee reviewed 9 permanent Iowa medical license applications. The Committee recommended granting one license. The Committee recommended that one license be granted with a consent agreement due to disciplinary action in another state. One applicant withdrew his application prior to the meeting. Two applications were left open to give the applicant an opportunity to withdraw the application. Three applications were left open to obtain more information.

The committee recommended approval of a waiver of Iowa Administrative Code 653-9.7(3)"a", which requires applicants to pass the (Old) FLEX examination with a FLEX-weighted average of 75 percent or better, as determined by the state medical licensing authority, in no more than two attempts. The Board accepted the committee's recommendation to waive the requirement because the applicant passed the (Old) FLEX for Wisconsin in 1982 with a weighted average of 75 percent or better, in three attempts; the applicant previously held a permanent Iowa medical in good standing from 1983-1996 prior to the amendment of the requirements for licensure under the FLEX; and the applicant currently holds active medical licenses in good standing in Wisconsin, Georgia, and Michigan.

The committee approved issuance of 1 Letter of Warning to an applicant who failed to provide truthful, accurate or complete information on their applications; 1 Letter of Warning for allowing a third party to complete the application; and 1 Letter of Warning due to previous misconduct.

In other action the Board:

- Voted to adopt rules which establish the minimum requirements for prescribing psychologists.
- Voted to adopt rules which add "ulcerative colitis" to the list of debilitating medical conditions for the use of medical cannabidiol.
- Voted to notice rules which add "severe, intractable pediatric autism with self-injurious or aggressive behavior" to the list of debilitating medical conditions for the use of medical cannabidiol.
- Voted to approve the use of vaporizable inhaled forms of medical cannabidiol.

- Voted to adopt rules which amend the standards of practice for physicians who serve as a medical director at a medical spa.
- Voted to adopt rules which establish licensure fees for genetic counselors and acupuncturists.
- Voted to notice rules which amend the standards of practice for appropriate pain management.
- Voted to issue a Ruling on Petition for Declaratory Order regarding the Board's authority to publish a Statement of Charges and an accompanying press release.
- Reviewed a report from the Iowa Physician Health Program, which had 42 active participants and 12 applicants in the review process as of December 2018.
- Reviewed a report from the Iowa Attorney General's Office on three cases: 1) The Board's issuance of a confidential letter of warning on November 29, 2017, to Mark B. Irland, M.D., of Grinnell. This case will be heard by the Iowa Court of Appeals or the Iowa Supreme Court later this year. 2) The Supreme Court of Iowa Decision in Planned Parenthood of the Heartland and Jill Meadows, Appellants, vs. Kimberly K. Reynolds ex rel. State of Iowa and Iowa Board of Medicine, Appellees. 3) Judicial review in the matter of Michael Lajeunesse v. Iowa Board of Medicine.
- Granted a waiver of Iowa Administrative Code 653-9.7(3)"a", which requires applicants to pass the (Old) FLEX examination with a FLEX-weighted average of 75 percent or better, as determined by the state medical licensing authority, in no more than two attempts. The Board accepted the committee's recommendation to waive the requirement because the applicant passed the (Old) FLEX for Wisconsin in 1982 with a weighted average of 75 percent or better, in three attempts; the applicant previously held a permanent Iowa medical in good standing from 1983-1996 prior to the amendment of the requirements for licensure under the FLEX; and the applicant currently holds active medical licenses in good standing in Wisconsin, Georgia, and Michigan.

A press release describing public disciplinary action taken by the Board was distributed and posted on the Board's Website on December 19, 2018. If you have any questions about this summary or the press release, please contact Kent M. Nebel, J.D., Interim Executive Director, at (515) 281-7088 or kent.nebel@iowa.gov.