

**IOWA BOARD OF MEDICINE
DECEMBER 13-14, 2018
BOARD MEETING - OPEN MINUTES**

THURSDAY, DECEMBER 13, 2018:

MEMBERS PRESENT: Kyle Ulveling, M.D., Chair
KellyAnn Light-McGroary, M.D., Vice Chair
Diane Cortese, Secretary
Warren Gall, M.D.
Nicole Gilg Gachiani, M.D.
Ronald Kolegraff, M.D.
Mary Jo Romanco
Brian Wilson, D.O.

MEMBERS ABSENT: Philip Bear, D.O.

STAFF PRESENT: Kent Nebel, Interim Executive Director
John Olds, M.D., Medical Advisor
Jim Graham, Chief Investigator
Brandi Allen, Investigator
Jerome Hill, Investigator
Jennifer Huisman, Investigator
Aaron Kephart, Investigator
Dave McGlaughlin, Investigator
Anne Schlepphorst, Investigator
Laura Wood, Investigator
Mary Knapp, Enforcement Monitor
Amy Van Maanen, Iowa Physician Health Program Coordinator
Kari Rolls, Administrative Assistant
Jordan Esbrook, Assistant Attorney General

At 11:19 a.m., Kyle Ulveling, M.D., Chair, called the meeting to order.

At 11:20 a.m., on a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romanco, all members present voted to meet in closed session, pursuant to Iowa Code Sections 21.5(1)(a), 21.5(1)(d) and 21.5(1)(f), to review or discuss records which are required or authorized by state or federal law to be kept confidential, discuss the contents of a licensing examination or whether to initiate licensee disciplinary investigations or proceedings, and discuss the decision to be rendered in a contested case. Diane Cortese, Nicole Gilg Gachiani, M.D., Warren Gall, M.D., Ronald Kolegraff, M.D., KellyAnn Light-McGroary, M.D., Mary Jo Romanco, Kyle Ulveling, M.D., and Brian Wilson, D.O., all voted aye in a roll call vote to approve the motion.

At 5:04 p.m., Closed Session went to recess. The closed session resumed on Friday, October 26, 2018, at 8:06 a.m.

FRIDAY, DECEMBER 14, 2018:

MEMBERS PRESENT: Kyle Ulveling, M.D., Chair
KellyAnn Light-McGroary, M.D., Vice Chair
Diane Cortese, Secretary
Warren Gall, M.D.
Nicole Gilg Gachiani, M.D.
Ronald Kolegraff, M.D.
Mary Jo Romanco
Brian Wilson, D.O.

MEMBERS ABSENT: Philip Bear, D.O.

STAFF PRESENT: Kent Nebel, Interim Executive Director
Jim Graham, Chief Investigator
John Olds, M.D., Medical Advisor
Jerome Hill, Investigator
Jennifer Huisman, Investigator
Anne Schlepphorst, Investigator
Laura Wood, Investigator
Chrissy Greco, Assistant to Executive Director
Kari Rolls, Administrative Assistant
Steve Ervin, IT Specialist
Amy Van Maanen, Iowa Physician Health Program Coordinator
Jordan Esbrook, Assistant Attorney General

Closed session resumed at 8:06 a.m.

At 8:23 a.m., while still in closed session, all members present voted in favor of a motion by Nicole Gilg Gachiani, M.D., seconded by Ronald Kolegraff, M.D., to meet in an open session. In open session, the Board took the following actions:

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to grant the Motion to Amend Statement of Charges for LeRoy L. Yates, Jr., M.D., files 02-2013-482, 02-2013-556, 02-2015-109, 02-2015-200, 02-0215-417 and 02-2018-443. Ronald Kolegraff, M.D., Jordan Esbrook, Assistant Attorney General, and all Board staff recused.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to leave open file 02-2016-641.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to file Statement of Charges against Sameer Gupta, M.D., file 02-2017-312. Ronald Kolegraff, M.D., recused.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to accept the combined Statement of Charges and Settlement Agreement for Barry J. Waack, D.O., D.O., file 03-2016-548.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to leave open file 03-2015-564.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to leave open file 02-2014-391.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to leave open file 02-2014-582.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to leave open file 02-2015-521.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to leave open file 02-2010-575.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to leave open file 02-2010-623.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to leave open file 02-2011-204.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to leave open file 02-2013-045.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to leave open file 02-2015-198.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to accept the combined Statement of Charges and Settlement Agreement for Thomas J. Snyder, D.O., files 03-2015-451 and 03-2017-114.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to affirm its original decision to close file 03-2002-120, with no formal disciplinary action.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to affirm its original decision to close file 03-2007-434, with no formal disciplinary action.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to affirm its original decision to close file 03-2010-167, with no formal disciplinary action.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to leave open file 02-2014-625.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to leave open file 02-2016-139.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to leave open file 02-2018-055.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to leave open file 02-2018-203.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to leave open file 02-2016-543.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to leave open file 02-2018-455.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to leave open file 03-2016-648.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to leave open file 02-2018-054. KellyAnn Light-McGroary, M.D., recused.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to leave open file 02-2016-235.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to leave open file 02-2016-566.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to affirm its original decision to close file 02-2017-076, with no formal disciplinary action.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to affirm its original decision to close file 02-2015-334, with no formal disciplinary action.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to affirm its original decision to close file 02-2017-400, with no formal disciplinary action.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to leave open file 02-2017-099.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to leave open file 02-2017-433.

On a motion by KellyAnn Light-McGroary, M.D., seconded by Warren Gall, M.D., all Board members present voted to leave open file 02-2017-460.

On a motion by KellyAnn Light-McGroary, M.D., seconded by Warren Gall, M.D., all Board members present voted to leave open file 02-2016-042.

On a motion by KellyAnn Light-McGroary, M.D., seconded by Warren Gall, M.D., all Board members present voted to close file 02-2015-173, with no formal action. Kyle Ulveling, M.D., recused.

On a motion by KellyAnn Light-McGroary, M.D., seconded by Warren Gall, M.D., all Board members present voted to close file 02-2015-430, with no formal action.

On a motion by KellyAnn Light-McGroary, M.D., seconded by Warren Gall, M.D., all Board members present voted to close file 02-2014-160, with no formal action.

On a motion by KellyAnn Light-McGroary, M.D., seconded by Warren Gall, M.D., all Board members present voted to close file 03-2016-442, with no formal action. Nicole Gilg Gachiani, M.D., recused.

On a motion by Warren Gall, M.D., seconded by Nicole Gilg Gachiani, M.D., all Board members present voted to close file 02-2017-533, with no formal action. KellyAnn Light-McGroary, M.D., recused.

On a motion by Warren Gall, M.D., seconded by Mary Jo Romanco, all Board members present voted to close file 02-2017-497, with no formal action.

On a motion by Warren Gall, M.D., seconded by Diane Cortese, all Board members present voted to close file 02-2015-546, with no formal action.

On a motion by Warren Gall, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 03-2015-535, with no formal action.

On a motion by Warren Gall, M.D., seconded by Brian Wilson, D.O., all Board members present voted to close file 03-2018-275, with no formal action.

On a motion by Warren Gall, M.D., seconded by KellyAnn Light-McGroary, M.D., all Board members present voted to close file 02-2018-311, with no formal action.

On a motion by Warren Gall, M.D., seconded by Nicole Gilg Gachiani, M.D., all Board members present voted to leave open file 02-2015-518.

On a motion by Warren Gall, M.D., seconded by Mary Jo Romanco, all Board members present voted to leave open file 02-2018-465.

On a motion by Warren Gall, M.D., seconded by Diane Cortese, all Board members present voted to close file 02-2015-244, with no formal action.

On a motion by Warren Gall, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 03-2018-151, with no formal action.

On a motion by Warren Gall, M.D., seconded by Brian Wilson, D.O., all Board members present voted to close file 02-2018-224, with no formal action. Nicole Gilg Gachiani, M.D., recused.

On a motion by Warren Gall, M.D., seconded by KellyAnn Light-McGroary, M.D., all Board members present voted to close file 03-2015-671, with no formal action.

On a motion by Warren Gall, M.D., seconded by Nicole Gilg Gachiani, M.D., all Board members present voted to leave open file 03-2017-323.

On a motion by Warren Gall, M.D., seconded by Mary Jo Romanco, all Board members present voted to leave open file 02-2018-487.

On a motion by Warren Gall, M.D., seconded by Diane Cortese, all Board members present voted to close file 02-2017-525, with no formal action.

On a motion by Warren Gall, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2017-526, with no formal action.

On a motion by Warren Gall, M.D., seconded by Brian Wilson, D.O., all Board members present voted to close file 02-2018-117, with no formal action.

On a motion by Warren Gall, M.D., seconded by KellyAnn Light-McGroary, M.D., all Board members present voted to leave open file 02-2018-405.

On a motion by Warren Gall, M.D., seconded by Nicole Gilg Gachiani, M.D., all Board members present voted to close file 03-2017-224, with no formal action.

On a motion by Warren Gall, M.D., seconded by Mary Jo Romanco, all Board members present voted to close file 02-2018-195, with no formal action.

On a motion by Warren Gall, M.D., seconded by Diane Cortese, all Board members present voted to close file 02-2017-472, with no formal action.

On a motion by Warren Gall, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to leave open file 03-2018-115.

On a motion by Warren Gall, M.D., seconded by Brian Wilson, D.O., all Board members present voted to close file 02-2018-383, with no formal action. Kyle Ulveling, M.D., recused.

On a motion by Warren Gall, M.D., seconded by KellyAnn Light-McGroary, M.D., all Board members present voted to leave open file 02-2018-280.

On a motion by Warren Gall, M.D., seconded by Nicole Gilg Gachiani, M.D., all Board members present voted to close file 02-2015-461, with no formal action.

On a motion by Warren Gall, M.D., seconded by Mary Jo Romanco, all Board members present voted to close file 02-2018-375, with no formal action.

On a motion by Warren Gall, M.D., seconded by Diane Cortese, all Board members present voted to close file 02-2018-375, with no formal action. Nicole Gilg Gachiani, M.D., recused.

On a motion by Warren Gall, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2017-657, with no formal action. Nicole Gilg Gachiani, M.D., recused.

On a motion by Warren Gall, M.D., seconded by Brian Wilson, D.O., all Board members present voted to close file 02-2017-656, with no formal action.

On a motion by Warren Gall, M.D., seconded by KellyAnn Light-McGroary, M.D., all Board members present voted to close file 03-2018-310, with no formal action.

On a motion by Warren Gall, M.D., seconded by Nicole Gilg Gachiani, M.D., all Board members present voted to close file 03-2018-295, with no formal action.

On a motion by Warren Gall, M.D., seconded by Mary Jo Romanco, all Board members present voted to close file 02-2018-189, with no formal action.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to close file 02-2017-006, with no formal action.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to close file 03-2016-326, with no formal action.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to close file 02-2017-499, with no formal action.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to close file 02-2017-260, with no formal action.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to close file 03-2017-066, with no formal action. Kyle Ulveling, M.D., recused.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to close file 02-2018-030, with no formal action.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to close file 02-2018-126, with no formal action.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to close file 02-2018-060, with no formal action.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to close file 02-2018-485, with no formal action.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to close file 03-2018-023, with no formal action.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to close file 02-2018-192, with no formal action.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to close file 02-2018-347, with no formal action.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to close file 02-2018-377, with no formal action. Ronald Kolegraff, M.D., recused.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to close file 02-2018-312, with no formal action. Nicole Gilg Gachiani, M.D., recused.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to close file 02-2018-558, with no formal action.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to close file 02-2018-441, with no formal action.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to close file 02-2018-254, with no formal action.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to close file 03-2018-401, with no formal action. Ronald Kolegraff, M.D., recused.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to close file 02-2018-403, with no formal action.

Kyle Ulveling, M.D., notified the Board that the Executive Committee is working with Nathan Wilson from the Iowa Department of Public Health to review the 68 applications and conduct

interviews for the vacant Executive Director position. Warren Gall, M.D., volunteered to join the Committee, with Diane Cortese and KellyAnn Light-McGroary, M.D, being alternates to assist in conducting interviews, if needed.

At 9:06 a.m., Kyle Ulveling, M.D., called the meeting to order and asked the public in attendance to introduce themselves, and thanked them for attending. Public members in attendance:

Allen	Sara	National Society of Genetic Counselors
Boes	Lynn	Iowa Nurses Association
Campbell	Colleen	Director of UI Health Care Genetic Counseling
Caskey	Jennifer	Iowa Department of Public Health
Cheney	Ken	Iowa Department of Public Health Medical Advisory
Clark	Tommie	KCCI-TV
Cope	Tom	Iowa Association of Anesthesiologists
Cornelius	Randy	Iowa Association of Nurse Anesthetists
Dorman	Jenny	Iowa Association of Nurse Anesthetists
Ficek	Casey	Iowa Pharmacy Association
Gaunt	Lindsay	
Gaunt	Obreigh	
Gaunt	Cory	
Gilbert	Michelle	United States Department of Justice
Jordan	Louis	WHO-TV
Kruse	Kevin	Iowa Association of Anesthesiologists
Lonning	Bethe	Iowa Psychologists Association
Lucas	Rebecca	MedPharm Iowa
Meade	Mackenzie	Iowa Pharmacy Association
Meyers	Kelly	Iowa Association of Nurse Practitioners
Nelson	Lucas	MedPharm Iowa
Nelson	Trent	Attorney
Olsen	Carl	Iowans for Medical Marijuana
Payne	Brenda	Iowa Psychologists Association
Philp, JD	Erin	American Psychiatric Association
Piper	Emily	Iowa Psychiatric Association
Pitlick	Matthew	Iowa Pharmacy Association
Roberts	Mary	Autism Center Coordinator-University of Iowa Stead Family Children's Hospital
Rogers	Liz	Gunderson Health System
Schuman	Dave	MedPharm Iowa

Sellers	Mike	Attorney
Smith	Jolene	
Thiesen	Linda	University of Iowa
Tibben	Dennis	Iowa Medical Society
Vavricek	Timothy	United States Department of Justice
Voyra	Teri	
Wineberg	Kathy	Iowa Board of Nursing

Public Comments:

Members of the public present are offered an opportunity to address the Board at the start of public session or will be allowed to make comments as agenda items are considered by the Board.

Board Minutes:

On a motion by KellyAnn Light McGroary, M.D., seconded by Philip Bear, D.O., all Board members present voted to **approve** the October 25-26, 2018, open and closed minutes as presented.

Chair's Report:

Kyle Ulveling stated that the Board met with the Iowa Department of Public Health to begin the process of selecting the next executive director for the Iowa Board of Medicine. He said they have been and will continue to be assisted through the process by Nathan Wilson from the Department of Public Health. A subcommittee has been formed to go through the interview process. That subcommittee consists of himself, Dr. Gilg Gachiani, M.D., Dr. Warren Gall, M.D. and Mary Jo Romanco, who will screen the applicants in preparation for interviews with the full Board. Sarah Reisetter from Public Health will assist in this process as well.

Executive Director's Report:

Board Actions: From January 1 through December 12, 2018:

Investigations: The Board has reviewed 601 investigative cases.

Disciplinary Action: The Board has initiated disciplinary action against 20 licensees.

Consent Agreements: The Board has issued 4 consent agreements as a condition for issuing a medical license.

Confidential Letters of Warning or Education: The Board has issued 91 confidential letters of warning or education to licensees who have been the subject of investigations for competency or conduct complaints.

Waivers: The Board has approved 7 petitions to waive certain administrative rules: training requirements for three applicants for medical licensure; an educational requirement for a pharmacist participating in a drug management collaborative practice agreement; and licensing or certification requirements for a laser technician performing delegated medical aesthetic services in a medical spa.

Administrative Rules: The Board has adopted 2 administrative rules.

Administrative Rulemaking:

Prescribing Psychologists – Joint Rules

Mr. Nebel said that new language was drafted regarding consultation with a supervising physician and the supervising physician and the primary care physician. The language was also modified to make it clear that a release of information will be required so that treatment will be given as a team of providers.

The language has been reviewed with the attorney general's office for both the Board of Medicine and the Board of Psychology.

On a motion by KellyAnn Light-McGroary, M.D., seconded by Brian Wilson, M.D., the Board voted to **adopt** the rule with the amendments as presented.

Medical Cannabidiol Rules (ARC 3830CC)

A Notice was filed on September 24, 2018 to add "Ulcerative Colitis" to the list of debilitating medical conditions. Public hearing was held on November 20, 2018.

On a motion from Nicole Gilg Gachiani, M.D., seconded by Warren Gall, M.D. the Board voted to **adopt** the rule adding "Ulcerative Colitis" to the list of debilitating medical conditions.

A new Petition from the Department of Public Health was submitted for consideration to add severe, intractable pediatric autism with self-injurious or aggressive behaviors to the list of debilitating medical conditions.

Public comments were made by Mary Roberts and Lindsay Gaunt.

On a motion from KellyAnn Light-McGroary, M.D., seconded by Ronald Kolegraff, M.D. the Board voted to **notice a new rule** to add "severe, intractable pediatric autism with self-injurious or aggressive behaviors" to the list of debilitating medical conditions.

The Cannabidiol Board presented proposed rule 641 IAC 154.14(2) to add Inhaled Forms to the rule, including nebulizable and vaporizable.

Public comments were made by Mary Roberts, Dr. Jolene Smith, Rebecca Lucas (MedPharm), Dr. Ken Cheney (Iowa Department of Public Health Medical Advisory), Carl Olsen (Iowans for Medical Marijuana), Lindsay Gaunt (Filed petition through Public Health to add severe, intractable pediatric autism with self-injurious or aggressive behaviors).

A motion to object adding Inhaled Forms to the rule, including nebulizable and vaporizable was made by Kyle Ulveling, M.D., and seconded by Mary Jo Romanco. On a vote, those in favor of the objection were Kyle Ulveling, M.D., Mary Jo Romanco and Diane Cortese, Secretary. Those in favor of adding Inhaled Forms to the rule, including nebulizable and vaporizable were KellyAnn Light-McGroary, M.D., Brian Wilson, D.O., Ronald Kolegraff, M.D., Warren Gall, M.D., and Nicole Gilg Gachiani, M.D.

Lucas Nelson from MedPharm asked for clarification on the vote and referred to the Board's PowerPoint handout, Chapter 13.15(3) Adding or removing debilitating medical conditions and amending form and quantity of medical cannabidiol - **If the recommendation is approved by the Board of Medicine, it shall be adopted by rule**; and asked that the Board note the vote of 5 to 3 to recommend adding Inhaled Forms to the rule, including nebulizable and vaporizable as being adopted by the Board.

Kent Nebel, Interim Executive Director, confirmed Mr. Nelson's point and added that with this rule the Board must adopt the recommendation as presented based on the 5 to 3 approval.

On a motion by Ronald Kolegraff, M.D., seconded by Warren Gall, M.D., the Board voted 5 to 3 to **approve** the motion to add Inhaled Forms to the rule, including nebulizable and vaporizable.

Medical Spa Rules

A Notice was filed on September 24, 2018 concerning delegation of medical aesthetic services to "laser technicians" at a medical spa and expansion of the definition of medical aesthetic services. An Administrative Rules Committee meeting was held November 13, 2018, and a public hearing was held November 20, 2018.

On a motion by Ronald Kolegraff, M.D., seconded by Nicole Gilg Gachiani, M.D., the Board voted to **adopt** the rules as presented.

Genetic Counselors Rules

A Notice was filed on October 5, 2018, regarding minimum requirements for licensure of genetic counselors. An Administrative Rules Committee meeting was held November 13, 2018, and a public hearing was held November 20, 2018.

Public comments were made by Dr. Colleen Campbell and Sara Allen on behalf of the Society of Genetic Counselors. They indicated that they are fine waiting to make sure both sides are on the same page with the rules and that they will continue to work with the Board and bring the rule back to the February 2019 Board meeting.

Fees - Acupuncturists & Genetic Counselors

A notice filed on October 4, 2018, regarding fees for acupuncturists and genetic counselors. An Administrative Rules Committee meeting was held on November 13, 2018, and a public hearing was held November 20, 2018.

On a motion by Warren Gall, M.D., seconded by Nicole Gilg Gachiani, M.D., the Board voted to **adopt** the rule as presented.

Pain Management Rules-Discussion

Kent Nebel, Interim Executive Director, asked for more time to work on the rule. No action was taken and the Board will bring the rules back to the February 2019 Board Meeting.

Continuing Medical Education Rules – Discussion

A Notice was filed on December 26, 2018. An Administrative Rules Committee meeting was held January 8, 2019, and a public hearing will be held January 22, 2019.

Abortion Rules – Discussion

Kent Nebel, Interim Executive Director, discussed the 2017 legislation regarding prerequisites for an abortion and noted that the Board has rules drafted but had chosen to wait for the Supreme Court's decision before moving forward with their rules. He noted that the first judicial review would have the Board mirror the statute that remains in effect. He recommended the Board not

notice the rule yet but to allow the public to make comment on the rule before it is noticed by the Board.

Jordan Esbrook, Assistant Attorney General for the Board, agreed with Mr. Nebel's recommendation.

Board of Nursing Proposed Rulemaking ARC 4132C - Discussion

The Board of Nursing has proposed rescinding Chapter 7, "Advanced Registered Nurse Practitioners," Iowa Administrative Code, and to adopt a new Chapter 7 with the same title.

Public comments were made by Dennis Tibben (Iowa Medical Society), Kathy Weinberg, (Executive Director, Iowa Board of Nursing) and Casey Ficek, (Iowa Pharmacy Association).

Kyle Ulveling, M.D., recommended to Ms. Weinberg that a public hearing be set for comments since there was no hearing held prior to the public comments closing period. She said that she would consider it.

Request for Declaratory Order

A Petition for Declaratory Order and Brief in Support of that Petition was filed by Mike Sellers, attorney for Domenico Calcaterra, M.D., regarding the Board's authority to publish a Statement of Charges and an accompanying Press Release.

After the legal and policy arguments were reviewed, Trent Nelson, Attorney for Dr. Calcaterra, asked the Board to change their decision on the publication of the Statement of Charges against doctors that are put out with Board Press Releases.

Mr. Nelson stated that the publications have a very derogatory impact on a doctor's career and makes the information in these publications punitive in nature. He stated that the Board is charged to look further into the investigative reports and not base their decisions solely on those reports. He stated that both Iowa Code sections 17A and 272C require a final decision, in their interpretation, before it is made public.

Kent Nebel, Interim Executive Director, added that the publications put out by the Board accurately reflect the information that the Board received or obtained during the investigative process and the ultimate punishment, agreed to by the parties in this case, were a citation and warning with a \$5,000 fine.

Attorney Michael Sellers said that these charges were based on accusations and if the public record reflected the final ruling based on what the statute says, it would be the Settlement Agreement and not the three press releases including lurid accusations going back to Dr. Calcaterra's residency days, of which none were adjudicated.

Jordan Esbrook, Assistant Attorney General, gave the Board two options on which to decide. She explained the Board's rules in which cases allow the Board to decline a Declaratory Order. She also explained the 30-day timeline in which a request for judicial review is allowed and that Dr. Calcaterra's final Order is from 2013.

Ms. Esbrook explained that the Board has the option from 17A to decline the Declaratory Order. She said that the Board has the option from Iowa Code 272C, which states that a Statement of Charges is considered to be public documents and the issue was litigated in 2007 in Eduardo

Reveiz, MD, Plaintiff-Appellant/Cross-Appellee, vs. Iowa Board of Medical Examiners before the Court of Appeals, which also ruled that these documents are public.

Ms. Esbrook explained that the Board may review the matter to a peer reviewer and that the Board's legal counsel and counsel from the Attorney general's Office review the case to determine whether there is enough evidence to support charges.

Mr. Nelson argued that the Board has the authority, based on Reveiz vs. Iowa Board of Medical Examiners, to change this policy.

Kent Nebel, Interim Executive Director, told the Board they should choose to either grant or decline the Declaratory Order.

On a motion by Nicole Gilg M.D., seconded by Mary Jo Romanco, with seven votes by the Board and one vote of abstention by KellyAnn Light-McGroary, M.D., to **approve** the Ruling on Petition for Declaratory Order which declines to issue a Declaratory Order in response to Dr. Calcaterra's Petition for Declaratory Order.

Iowa Board of Pharmacy – Proposed Legislation

Kent Nebel, Interim Executive Director, noted that the bill addresses a pharmacist provision of drug therapy management services, including immunizations under the direction and authorization of a practitioner in a collaborative practice agreement.

He stated that the Board's existing rule 653 - 13.4 (148) addresses supervision of pharmacists engaged in collaborative drug therapy management and administer adult immunizations.

The pharmacy bill would change the law with regard to collaborative practice agreements allowing for other practitioners and would expand the immunizations permitted to be administered by pharmacists, dropping the age from 11 to 6.

Public comment was made by Andrew Funk, (Executive Director of the Iowa Pharmacy Board). He asked the Board to help him move the legislation forward this session.

Discussion around the influenza vaccine between Nicole Gilg Gachiani, M.D., Mr. Funk and Dennis Tibben, (Iowa Medical Society), ensued.

Mr. Tibben stated that the Iowa Medical Society would most likely have objections to the rule as they have in the past.

Public Presentation

A presentation on Reporting Crime to Law Enforcement was given by Timothy Vavricek and Michelle Gilbert of the United States Department of Justice.

Board Education:

Steve Ervin, IT Specialist for the Board, spoke with the Board members about the Iowa Public Information Board Advisory Opinion and their individual private email addresses being available to the public if they are used regularly as a point of communication for government business.

After discussion amongst the Board members on how to resolve their personal devices being subject to discovery, they have decided to look further into a solution and it will be brought back to the February 2019 Board meeting.

Kent Nebel, Interim Executive Director, said that an e-mail will be sent out to the Board members letting them indicate their preference on which e-mail to use going forward.

Polk County Medical Society - proposed Physician Wellness Programs

Kent Nebel, Interim Executive Director, asked Amy Van Maanen and Emily Zalasky from the Iowa Physician Health Program to review the program material to be sure it would not interfere with the Board's IPHP program.

They saw no problem with the program and the Board has no objection to it going forward.

Interstate Medical Licensure Compact

Mary Jo Romanco and Warren Gall, M.D., spoke about the highlights of their trip to Denver, Colorado for the Interstate Medical Licensure Compact Annual Meeting that was held in November 2018.

Iowa Physician Health Committee and Program

Amy Van Maanen, Iowa Physician Health Program Coordinator, discussed the committee's November 2018 meeting which was the last for Lester Yen. His replacement, Michael Daly, D.O., starts in February 2019. The monthly statistics for the program were not discussed, but were provided with the Board materials.

Judicial Review:

Jordan Esbrook, Assistant Attorney General for the Board, gave the following updates:

Irland vs. Board of Medicine - Mark B. Irland, M.D., was seeking judicial review of a confidential Letter of Warning issued by the Board, contending it is an illegal and unconstitutional agency action. District Court upheld the issuance of the letter. The case has been transferred to the Iowa Supreme Court/Court of Appeals. Oral argument is set for January 16, 2019.

Planned Parenthood of the Heartland vs. Kimberly K. Reynolds ex rel. State of Iowa and Iowa Board of Medicine – Planned Parenthood had an oral argument on December 7, 2018. Jordan Esbrook, Assistant Attorney General for the Board, will update the Board at the February 2019 Board meeting regarding their findings.

Michael A Lajeunesse vs. Iowa Board of Medicine - Michael Lajeunesse was convicted of attempted murder and he made a complaint to the Board about the Medical Examiner who gave expert testimony in his criminal trial. He filed a Petition for Judicial Review of the Board's decision not to investigate. Because the Board's decision not to discipline a licensee is not subject to judicial review under Iowa Code 272C.3(1)(d), the District Court dismissed the Petition. Mr. Lajeunesse filed a petition for a writ of certiorari with the Iowa Supreme Court, which the Iowa Supreme Court denied on December 13, 2018.

Jordan Esbrook, Assistant Attorney General for the Board, spoke about her attendance at the Federation of State Medical Board Attorney workshop in Austin, Texas and thanked the Board for giving her the opportunity to attend.

Committee Reports:

The Committee Reports were reviewed by the Board in closed session and are presented in open session for approval.

Licensure Committee:

The following report was given by Amy Van Maanen:

The committee reviewed 11 cases total, approved three letters of warning, accepted one consent agreement, left four cases open and asked one applicant withdraw their application.

There was one consideration for a waiver request:

Gary L. Shultz, D.O., submitted a petition to waive Iowa Administrative Code 653-9.7(3)a, which states: "9.7(3) FLEX: a. From 1968 to 1985, (Old) FLEX was a three-day examination. Day 1 covered basic science; Day 2 covered clinical science; and Day 3 covered clinical competency. Applicants who took Old FLEX shall provide evidence of successful achievement of at least two of the following: (1) Certification under seal that the applicant passed FLEX with a FLEX-weighted average of 75 percent or better, as determined by the state medical licensing authority, in no more than two sittings. (2) Verification under seal of medical licensure in the state that administered the examination. (3) Evidence of current certification by an American specialty board approved or recognized by the Council of Medical Education of AMA, ABMS, or AOA". Dr. Shultz passed FLEX with three attempts in 1982 for Wisconsin. Dr. Shultz held an Iowa resident license from 1981-1983 and a permanent Iowa license from 1983-1996. He currently holds active licenses in Georgia, Michigan and Wisconsin. Dr. Shultz is not ABMS certified.

On a motion by KellyAnn Light-McGroary, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to **grant** the waiver request of Gary L. Shultz, D.O.

Monitoring Committee:

The following report was given by Kent Nebel, Interim Executive Director:

The committee reviewed seven cases, took three minor administrative actions but none that require full Board approval.

Screening Committee:

The following report was given by Ronald Kolegraff, M.D.:

The committee reviewed 25 cases and left two cases open for further investigation.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to **accept** the committee reports as presented.

Public session ended at 12:22 p.m.

At 12:31 p.m., all members present voted in favor of a motion by Ronald Kolegraff, M.D., seconded by Warren Gall, M.D., to adjourn the meeting.