



Fields of Opportunities

STATE OF IOWA

KIM REYNOLDS, GOVERNOR
ADAM GREGG, LT. GOVERNOR

IOWA BOARD OF MEDICINE
KENT NEBEL, J.D., EXECUTIVE DIRECTOR
kent.nebel@iowa.gov

**SEPTEMBER 19-20, 2019 - BOARD MEETING
OPEN MINUTES**

September 19, 2019:

MEMBERS PRESENT: Kyle Ulveling, M.D., Chair
Ronald Kolegraff, M.D., Vice-Chair
Diane Cortese, Secretary
Warren Gall, M.D.
Mary Jo Romano
Joyce Vista-Wayne, M.D.
Nikhil Wagle, M.D.
Brian Wilson, D.O.

MEMBERS ABSENT: None

STAFF PRESENT: Kent Nebel, Executive Director
Joseph Fraioli, Director of Legal Affairs
Jim Graham, Chief Investigator
Aaron Kephart, Investigator
Anne Schlepfforst, Investigator
Brandi Allen, Investigator
Dave McGlaughlin, Investigator
Jerome Hill, Investigator
Laura Wood, Investigator
Mary Knapp, Enforcement Monitor
Andrew Rupiper, Compliance Support Coordinator
Kari Rolls, Administrative Assistant
Jordan Esbrook, Assistant Attorney General
Anagha Dixit, Assistant Attorney General

At 11:00 a.m., Kyle Ulveling, M.D., Chair, called the meeting to order.

At 11:01 a.m., on a motion by Mary Jo Romano, seconded by Joyce Vista-Wayne, M.D., all members present voted to meet in closed session, pursuant to Iowa Code Sections 21.5(1)(a), 21.5(1)(c), 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, discuss the decision to be rendered in a contested case, and discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation. Diane Cortese, Warren Gall, M.D., Ronald Kolegraff, M.D., Mary Jo Romano, Kyle Ulveling, M.D., Joyce Vista-Wayne, M.D., Nikhil Wagle, M.D., and Brian Wilson, D.O., all voted aye in a roll call vote to approve the motion.

At 5:54 p.m., Closed Session went to recess. The closed session resumed on Friday, September 20, 2019, at 8:34 a.m.

September 20, 2019:

MEMBERS PRESENT: Kyle Ulveling, M.D., Chair
Ronald Kolegraff, M.D., Vice-Chair
Warren Gall, M.D.
Mary Jo Romano
Joyce Vista-Wayne, M.D.
Nikhil Wagle, M.D.
Brian Wilson, D.O.

MEMBERS ABSENT: Diane Cortese, Secretary

STAFF PRESENT: Kent Nebel, Executive Director
Joseph Fraioli, Director of Legal Affairs
Jim Graham, Chief Investigator
Dave McGlaughlin, Investigator
Jerome Hill, Investigator
Amy Van Maanen, Iowa Physician Health Program Coordinator
Emily Zalasky, Iowa Physician Health Program Case Manager
Mary Knapp, Enforcement Monitor
Andrew Rupiper, Compliance Support Coordinator
Kari Rolls, Administrative Assistant
Chrissy Greco, Assistant to Executive Director
Shantel Billington, Office Manager
Steve Ervin, Information Technology Support
Jordan Esbrook, Assistant Attorney General
Anagha Dixit, Assistant Attorney General

Closed session resumed at 8:34 a.m.

At 8:41 a.m., while still in closed session, all members present voted in favor of a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, to meet in an open session. In open session, the Board took the following actions:

On a motion by Mary Jo Romano, seconded by Warren Gall, M.D., all Board members present voted to **deny** the Motion and Application or Petition or Demand to Rescind and Terminate Settlement Agreement in its Entirety for David B. Robinson, M.D., file 02-2014-323. Jordan Esbrook, AAG, and Anagha Dixit, AAG, recused.

On a motion by Mary Jo Romano, seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2018-481.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2018-054.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2018-400.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2017-307.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2017-531.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2018-203.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2018-455, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2019-100.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2017-440.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2017-644.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2019-075.

On a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2018-589.

On a motion by Nikhil Wagle, M.D., seconded by Warren Gall, M.D., all Board members present voted to **affirm** its original decision to **close** file 02-2016-644, **with no formal disciplinary action**.

On a motion by Nikhil Wagle, M.D., seconded by Warren Gall, M.D., all Board members present voted to **affirm** its original decision to **close** file 02-2018-412, **with no formal disciplinary action**.
Brian Wilson, D.O., recused.

On a motion by Nikhil Wagle, M.D., seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 03-2014-522.

On a motion by Nikhil Wagle, M.D., seconded by Warren Gall, M.D., all Board members present voted to **affirm** its original decision to **close** file 02-2018-366, **with no formal disciplinary action**.

On a motion by Nikhil Wagle, M.D., seconded by Warren Gall, M.D., all Board members present voted to **affirm** its original decision to **close** file 02-2016-224, **with no formal disciplinary action**.

On a motion by Nikhil Wagle, M.D., seconded by Warren Gall, M.D., all Board members present voted to **affirm** its original decision to **close** file 02-2018-413, **with no formal disciplinary action**.

On a motion by Nikhil Wagle, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2018-055, with **no formal action**.

On a motion by Joyce Vista-Wayne, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2019-117, with **no formal action**. Nikhil Wagle, M.D., recused.

On a motion by Nikhil Wagle, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2019-112, with **no formal action**. Ronald Kolegraff, M.D., and Brian Wilson, D.O., recused.

On a motion by Nikhil Wagle, M.D., seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2018-644.

On a motion by Nikhil Wagle, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2019-046, with **no formal action**.

On a motion by Ronald Kolegraff, M.D., seconded by Joyce Vista-Wayne, M.D., all Board members present voted to **close** file 02-2017-417, with **no formal action**. Warren Gall, M.D., recused.

On a motion by Ronald Kolegraff, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2019-113, with **no formal action**.

On a motion by Ronald Kolegraff, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2018-488, with **no formal action**.

On a motion by Ronald Kolegraff, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2017-401, with **no formal action**.

On a motion by Ronald Kolegraff, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2018-225, with **no formal action**.

On a motion by Ronald Kolegraff, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2018-226, with **no formal action**.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2018-227, with **no formal action**.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2019-120, with **no formal action**.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 03-2019-178, with **no formal action**.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2018-193, with **no formal action**. Joyce Vista-Wayne, M.D., recused.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2018-298, with **no formal action**.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2018-299, with **no formal action**.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2018-248, with **no formal action**.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2018-211, with **no formal action**.

On a motion by Kyle Ulveling, M.D., seconded by Joyce Vista-Wayne, M.D., all Board members present voted to **close** file 02-2018-491, with **no formal action**. Warren Gall, M.D., recused.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2018-612, with **no formal action**.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 03-2019-071, with **no formal action**.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 03-2019-164, with **no formal action**.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2018-053.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2018-210.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2018-358.

On a motion by Nikhil Wagle, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2019-123, with **no formal action**. Kyle Ulveling, M.D., recused.

On a motion by Nikhil Wagle, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2019-124, with **no formal action**. Kyle Ulveling, M.D., recused.

On a motion by Nikhil Wagle, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2019-125, with **no formal action**. Kyle Ulveling, M.D., recused.

On a motion by Nikhil Wagle, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2019-126, with **no formal action**. Kyle Ulveling, M.D., recused.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 03-2019-320, with **no formal action**.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2019-175, with **no formal action**.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2019-348. Joyce Vista-Wayne, M.D., recused.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2017-545, with **no formal action**.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2019-206.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2019-182.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2019-253.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2017-052.

On a motion by Kyle Ulveling, M.D., seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2018-415.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2019-307.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2019-317.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to **close** file 03-2017-590, with **no formal action**.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2019-292, with **no formal action**.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2019-156, with **no formal action**.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2019-242.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2019-442.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2018-252, with **no formal action**.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2018-407, with **no formal action**.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to **leave open** file 02-2019-099.

On a motion by Brian Wilson, D.O., seconded by Warren Gall, M.D., all Board members present voted to **close** file 02-2019-183, with **no formal action**.

PUBLIC SESSION

At 9:06 a.m., Board Chair, Kyle Ulveling, M.D., called the public session to order.

Public in Attendance	
Robert Leisy, D.O.	
Bill O'Neill	Center for Personalized Education for Professionals
Owen Parker	Iowa Department of Public Health
Sarah Reisetter	Iowa Department of Public Health
Robert Shrek, M.D.	Medical Cannabidiol Board
Linda Thiesen	University of Iowa
Dennis Tibben	Iowa Medical Society

After introductions of the Board members and the public in attendance, Dr. Ulveling offered the public a chance to speak on any general items not on the agenda.

Dr. Robert Leisy, a retired physician, approached the podium and spoke about the electronic prescription mandate, listed as item F5 under Legislation on the agenda.

Mr. Nebel asked Dr. Leisy if he had petitioned the Pharmacy Board regarding his concerns and informed him that the Pharmacy Board has granted several petitions similar to his circumstances as a retired physician. Mr. Nebel informed Dr. Leisy that the Pharmacy Board will be expanding the exemptions for retired physicians who do not prescribe controlled substances in the upcoming legislative session.

Mr. Nebel informed Dr. Leisy that the deadline to seek exemptions is October 1, 2019.

Board Minutes for Consideration of Approval

On a motion by Mary Jo Romano, seconded by Nikhil Wagle, M.D., all Board members present voted to accept the August 1-2, 2019, Board meeting open and closed minutes as presented.

On a motion by Joyce Vista-Wayne, M.D., seconded by Nikhil Wagle, M.D., all Board members present voted to accept the August 29, 2019, teleconference open and closed minutes as presented.

[Executive Director's Report on website.](#)

Administrative Rules

Pain Management Rules (ARC 4382C) - Consider Adoption

Mr. Nebel asked the Board to adopt the rule regarding Standards of Practice regarding the CDC guideline for chronic pain management.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to adopt the rule.

Genetic Counselor Rules (ARC 4477C)

Mr. Nebel asked the Board to adopt the non-emergency rulemaking and reported that the license application for Genetic Counseling was made available this week.

On a motion by Nikhil Wagle, M.D., seconded by Brian Wilson, D.O., all Board members present voted to adopt the rule.

Medical Cannabidiol Rules - Severe or Chronic Pain

Robert Shrek, M.D., addressed the Board regarding the amendment to the Petition from the Medical Cannabidiol Board to add severe or chronic pain to the list of approved uses.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to deny the proposed amendment.

Medical Cannabidiol Rules (ARC 4653C) Autism - Severe, Intractable Autism with Self-Injurious or Aggressive Behaviors

Mr. Nebel informed the Board that a Notice was filed and was published on September 11, 2019. He added that the deadline for public comments is October 1, 2019.

No action taken. The rule will be brought back to the November 2019 Board meeting.

Electronic Prescription Mandate

This rule requires the electronic transmission of all prescriptions as of January 1, 2020.

Public comment was made by Dr. Robert Leisy, in the beginning of the public session.

Mr. Nebel explained to the Board that the legislation allows prescribing Boards to assess administrative fines on prescribers who violate the law and that he is looking at rules to enable that process. He stated that because the process is not disciplinary, it would not fit in to the typical contested case process of the Board.

Prescribing Psychologists - (ARC 4663C)

Mr. Nebel gave an update to the Board regarding the Prescribing Psychologists Supervision and Collaboration rules. He informed the Board that a Notice was filed on September 3, 2019, was published September 25, 2019, and the deadline for public comment is October 15, 2019.

No action taken. The rule will be brought back to the November 2019 Board meeting.

Legislation

Licensing Sanctions Against Individuals Who Default/Are Delinquent on Student Loan Debt or Related Service Obligation - (SF 304)

This was signed by the Governor March 22, 2019, and prohibits the suspension or revocation of a license issued by the Board to a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

Mr. Nebel said that they would work on rules for this and bring it back to the November 2019 meeting.

Military and Veteran Benefits - HF 288

This was signed by the Governor April 8, 2019, and states that licensing Boards must establish procedures by January 1, 2020, to expedite the licensing of an individual who is licensed in a similar profession or occupation in another state and who is the spouse of an active duty member of the military forces of the United States.

Mr. Nebel said that they would work on rules for this and bring it back to the November 2019 meeting.

Mandatory Abuse Reporter Training - HF 731

This was signed by the Governor May 8, 2019. It maintains that every mandatory reporter must complete 2 hours of training within six months of employment or self-employment, unless otherwise specified by federal regulations, and requires one hour of additional training every 3 years.

Mr. Nebel said that they would work on rules for this and bring it back to the November 2019 meeting.

Operation of Health Boards - HF766 - Appropriations

This was signed by the Governor May 3, 2019 and places supervision of the Executive Directors for Medicine, Dental, Nursing and Pharmacy Boards under the Director of the Iowa Department of Public Health.

Sarah Reisetter from the Iowa Department of Public Health was in attendance to provide an update to the Board members regarding the newly drafted Memorandum of Understanding.

On a motion by Joyce Vista-Wayne, M.D., seconded by Warren Gall, M.D., all Board members present voted to accept the Memorandum of Understanding as presented.

Illinois Public Act 0828 – Hospital Sepsis Protocol

Mr. Nebel informed the Board that there is a concern in the community that sepsis is not being treated appropriately in hospital settings and people are dying. He informed the Board that a gentleman whose son died of sepsis in Iowa will be meeting with legislatures in October. Mr. Nebel stated that this man has asked for the Board's support in his endeavor to get legislation in place for required protocols, education and training in Iowa hospitals.

Mr. Nebel said that the Executive Committee discussed the concern. He stated that although the Board is not opposed to protocols, they are not in favor of legislating the standard of care in the practice of medicine and recommends that the Board not take a position regarding this issue.

Interstate Medical Licensure Compact Update

Mary Jo Romano informed the Board that there are now 29 states participating in the expedited licensure process. She said that the website is being redesigned and praised the Iowa licensure staff for making an easy transition for those going through the process during the redesign. She said that herself, Dr. Warren Gall and a licensure staff member will be attending the annual meeting in Las Vegas in November.

Dr. Warren Gall gave an update on his teleconference meeting with the Rules and Administrative Policy Committee and their discussion on the renewal processes across the states. He also gave an update from his meeting with the Ethics Committee, where they discussed physicians prescribing to friends and family. He said that all states are different when it comes to these particular rules and that the Ethics Committee will be sending questionnaires to each state to find out where each one stands, so that they may rewrite that rule to be standard within the Compact.

Board Education

A presentation was given by Bill O'Neill from the Center for Personalized Education for Professionals. He spoke about their program and how they are helping professionals and protecting patients.

Iowa Physician Health Program Report - Amy Van Maanen, Coordinator

Ms. Van Maanen gave an update on the website and an update and presentation on the Federation of State Physician Health Programs (FSPHP) Annual Conference.

Judicial Review - Jordan Esbrook, Assistant Attorney General

Irland v. 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. The Court of Appeals affirmed the district court's dismissal of Dr. Irland's petition for judicial review. The Iowa Supreme Court has granted Dr. Irland's request for further review. The Iowa Supreme Court will hear oral argument on the case sometime in the next session. This session ends June 30, 2020.

Request for Declaratory Order - Domenico Calcaterra, M.D. - After the Board denied his Petition for Declaratory Order, Dr. Calcaterra sought judicial review. The Board filed a motion to dismiss. Dr. Calcaterra requested a stay of the Board's decision to deny his petition, and for the court to order the Board to remove his disciplinary documents and press releases from its website. The district court granted Dr. Calcaterra's request for a stay, and remanded the petition for declaratory order back to the Board. Dr. Calcaterra also requested that the Board be held in contempt of court for retaining one press release on its website. The district court will hear argument on the contempt motion on September 6, 2019. The Board reconsidered the petition for a declaratory order and issued a declaratory order that the Board is not prohibited from including some information derived from investigations in its public statements of charges. The declaratory order was filed in the district court case. The district court will likely set a briefing schedule.

Vote on 2020 Board Calendar Dates

On a motion by Warren Gall, M.D., seconded by Joyce Vista-Wayne, M.D., all Board members present voted to approve the 2020 Board Calendar.

Committee Reports *(Reviewed in closed session and presented in open session for approval.)*

On a motion by Mary Jo Romano, seconded by Nikhil Wagle, M.D., all Board members present voted to accept the Licensure Committee Report and its recommendations.

On a motion by Ronald Kolegraff, M.D., seconded by Joyce Vista-Wayne, M.D., all Board members present voted to accept the Monitoring Committee Report and its recommendations.

On a motion by Joyce Vista-Wayne, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to accept the Screening Committee Report and its recommendations.

At 11:44 a.m., all members present voted in favor of a motion by Nikhil Wagle, M.D., seconded by Ronald Kolegraff, M.D., to adjourn the meeting.