



# STATE OF IOWA

KIM REYNOLDS, GOVERNOR  
ADAM GREGG, LT. GOVERNOR

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

## PUBLIC AGENDA

This regularly scheduled meeting is being held via videoconference because an in-person meeting is impractical due to COVID-19.

**MARCH 26-27, 2020**

## **A G E N D A**<sup>1, 2, 3, 4, 5</sup>

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

### THURSDAY, MARCH 26, 2020

7:30 a.m. - **EXECUTIVE COMMITTEE** - Medical Conference Room B

Chair Ulveling, Cortese, Gall, Kolegraff, Romano

9:30 a.m. **LICENSURE COMMITTEE** - Medical Conference Room B

Chair Gall, Romano, Ulveling, Wagle

### **BOARD-OPEN SESSION**

### **BOARD-CLOSED SESSION**

#### **A. Iowa Physician Health Committee**

1. Notices of non-compliance – None

#### **B. Committee Reports**

1. Licensure

#### **C. Review of Closed Minutes**

1. February 6-7, 2020 - Board meeting
2. February 14, 2020 - Board teleconference
3. March 12, 2020 - Board teleconference

### **LUNCH BREAK**

### **BOARD-CLOSED SESSION**

### **BOARD-OPEN SESSION**

#### **A. Unlicensed Practice of Medicine Cases**

1. None

#### **B. Vote on Closed Session Cases**

### **ADJOURN**

**FRIDAY, MARCH 27, 2020**

**7:30 a.m. - BOARD-OPEN SESSION**

**BOARD-CLOSED SESSION**

**BOARD-OPEN SESSION**

**8:00 a.m. - BOARD-PUBLIC SESSION**

**Members of the public may participate in the public session, by using the teleconference information below:**

**Call: 1 312 626 6799**

**Meeting ID: 325 268 082**

**Password: 6644**

**A. Introduction of Public Present**

**B. Opportunity for Public Comments<sup>5</sup>**

*(Public can make comments now or when specific agenda items are addressed.)*

**C. Staffing**

1. Welcome Dr. Woodhouse, the Board's new medical director.
2. Welcome Annie Hoffmann, the Board's new licensure director.
3. The monitoring program manager position has been approved and posted.

**D. Board Minutes for Consideration of Approval (Open & Closed)**

1. February 6-7, 2020 – Board meeting
2. February 14, 2020 – Teleconference
3. March 12, 2020 - Teleconference

**E. Executive Director's Report**

**F. CBD – Petition Review Process Discussion**

**G. Administrative Rules**

1. **Standards of Practice - Medical Cannabidiol - New definition discussion (Joe Fraioli)**
2. **Standards of Practice - Medical Cannabidiol - Update from the CBD Board (Owen Parker)**

**H. Proposed Legislation-Discussion**

**1. Health Professions Regulation (SF2392) - Passed Senate – House Consideration**

- a. Discourages legislation that would expand the regulation of unregulated health care professions.
- b. Requires a cost-benefit analysis.
- c. Discourages legislation that would expand the scope of practice of regulated health professions.
- d. Discourages legislation that would expand continuing education requirements.
- e. Establishes a legislative committee to review the efficacy of existing Boards.
- f. Requires Board's to submit efficacy reports to the legislation.
- g. Permits judicial review of cases that are closed without investigation or without a disciplinary hearing.
- h. Requires Board's to provide a statement specifying the reasons for rejection of the complaint.

- i. Discourages Board's from adopting rules which impair a professional's ability to gain entry into a profession.

## **2. Physician Assistants (SF2357)**

- a. Permits PAs to prescribe, dispense, order or administer drugs, controlled substances or medical devices.
- b. Permits PAs to provide any legal medical service for which the PA has been prepared by education, training or experience.
- c. Adds PAs to the current Tort reform limitations.
- d. Establishes that the degree of collaboration shall be determined at the practice level by the medical group, hospital service, supervising physician, employer or privileging system.
- e. Requires that a physician is accessible for consultation except for emergencies.
- f. Establishes that the supervising physician shall have ultimate responsibility for determining the medical care provided by the supervising physician-PA team.
- g. Requires the IBM and IBPA to notice rules at their next meetings.
- h. Prohibits the IBM and IBPA from noticing rules that impact the new rules for 2 years.

## **3. Medical Cannabidiol (HF2589)**

- a. Replaces "cannabidiol" with cannabis".
- b. Adds PAs, podiatrists, ARNPs and APRNs to list of certifiers.
- c. Replaces 3% THC with 4.5g of THC in a 90-day period.
- d. Replaces DOT with IDPH to provide registration cards.
- e. Removes certain disqualifying felony offenses.
- f. Requires dispensaries to employ a pharmacist or pharmacy tech. for dosing
- g. Requires the IDPH to conduct an observational effectiveness study.

## **I. Consider appointment of alternate Board members.**

1. Tom Drew, Attorney (Des Moines)
2. Nicole Gilg Gachiani, M.D. – Family Medicine (Des Moines)
3. Charles Wadle, D.O. – Psychiatry (Des Moines)
4. Rodney Zeitler, M.D. - Internal Medicine (Iowa City)
5. Michael Thompson, D.O. – General Surgery (Pella)
6. KellyAnn Light-McGroary, M.D., Cardiology (Iowa City)
7. Letter to Governor with recommendations from current Board members regarding future member appointments

## **J. Board Appointments**

1. Dr. Warren Gall's reappointment to the Board has been confirmed by the Governor's Office. His new term will extend to April 30, 2023.
2. Patricia Fasbender, D.O. – Family Medicine (Des Moines) has been appointed to the Board to fill a vacant physician member position.
3. Trudy Caviness – Business Professional (Ottumwa) has been appointed to the Board to fill the vacant public member position.

## **K. Discuss voting for Board officers**

## **L. Interstate Medical Licensure Compact – Update**

## **M. Iowa Physician Health Program Report – Amy Van Maanen, Coordinator**

1. Monthly statistics
2. Article of Interest - Policy Statement on Physicians and other Healthcare Professionals with Addiction.

## **N. Judicial Review – Anagha Dixit, Assistant Attorney General**

1. 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 granted Dr. Irland's request for further review and

held oral arguments on January 23, 2020. The Supreme Court issued a decision on February 14, 2020 reversing the rulings of both the District Court and the Court of Appeals. Procedendo has issued and the case is with the District Court with instructions on how to draft their order.

**2. Calcaterra v. Board of Medicine - 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. The Board issued a declaratory order finding that statements of charges are public documents. Dr. Calcaterra has renewed his petition for judicial review of this declaratory order. Parties briefed the matter and had oral arguments on the matter on January 17, 2020. The case has been submitted to Judge Hanson and we continue to await a decision.

**3. Robinson v. Board of Medicine-- David Robinson, M.D.**, entered a settlement agreement with the Board in 2016. In 2019, the Board terminated the terms of his probation. Dr. Robinson requested that the Board rescind the 2016 settlement agreement, and the Board declined to do so. Dr. Robinson has now sought judicial review of this agency action in district court. The appendix in this case was filed but Dr. Robinson alleges that the entire investigatory report should be part of the record. The Board has resisted the matter and a hearing was held on the issue on January 28, 2020. The matter has been submitted and awaiting an order. The scheduling order has been delayed as we still have not received a decision from the Court.

**4. Yates v. Board of Medicine – Leroy L. Yates, JR, M.D.**, lost a contested case on December 12, 2019. Within the 30 days he had to appeal the matter he filed a Petition for Judicial Review in District Court. However, he filed his Petition in an already resolved scheduling matter that was before the District Court. The Board has filed a notice to the District Court that this matter needs to be removed from that case and filed as a new case. The Board has also filed a Motion for a More Specific Statement and requested proper service once the case has been properly filed. Petitioner on his accord filed a new Petition for Judicial Review in new case. The Board has both answered the Petition and requested that the matter be dismissed as untimely. No briefing schedule has been set.

**5. Doe v. Board of Medicine – John Doe, M.D.**, lost a contested case on January 16, 2020. The Petitioner had been ordered by the Board to attend a confidential comprehensive competency evaluation. A hearing was held on the matter over two days in 2019 and Administrative Law Judge Johnathan Gallagher issued his decision on January 16, 2020. A timely petition for judicial review was filed. The Board has answered and has filed the administrative record and a briefing schedule will be set shortly.

#### **O. Board Education**

1. Yearly Security Training for Board members will be held at the May 2020, meeting

#### **P. Approve 2021 Board calendar.**

#### **Q. Recognition of Dr. Brian Wilson's service on the Board.**

#### **BOARD-CLOSED SESSION**

#### **LUNCH BREAK**

#### **BOARD-CLOSED SESSION**

#### **BOARD-OPEN SESSION**

1. Vote on Closed Session Cases

**ADJOURN** (*Board must be in open session to adjourn.*)

May 14-15	Memorial Day - May 25
July 9-10	Independence Day - July 3
August 27-28	Labor Day - September 7
October 22-23	Veterans Day - November 11
December 10-11	Thanksgiving Day - November 26
	Friday after Thanksgiving - November 27
	Christmas Day - December 25

**(1) The confidential matters listed on the agenda may concern medical records on the condition, diagnosis, care or treatment of a patient or investigation reports and other investigative information which are privileged and confidential under the provisions of Sections 22.7(2) and 272C.6(4), of the 2017 Code of Iowa. These matters constitute a sufficient**

**basis for the Board to consider a closed session under the provisions of Section 21.5(1) (a), (c), (d), (f) and (g) of the 2017 Code of Iowa. These sections provide that a governmental body may hold a closed session only by affirmative public vote of either two-thirds of the members of the body if all present, or all of the members present if not all members are present at the meeting to review or discuss records which are required or authorized by state or federal law to be kept confidential, to discuss whether to initiate licensee disciplinary investigations or proceedings and to discuss the decision to be rendered in a contested case conducted according to the provisions of Chapter 17A.**

**(2) Hearings may be closed at the discretion of the licensee, according to Section 272C.6(1) of the Code of Iowa 2017.**

**(3) Public agenda materials are available via e-mail. Contact: [ibm@iowa.gov](mailto:ibm@iowa.gov)**

**(4) The Board may address agenda items out of sequence to accommodate persons appearing before the Board or to aid in the efficiency or effectiveness of the meeting.**

**(5) At this time, members of the audience may address the Board for a period not to exceed 5 minutes. The Board reserves the right to reduce this time based on the number wishing to speak. If a member of the public wishes to address the Board with the intention of getting a Board decision at the meeting, the individual should request permission to be on the Board agenda. Written requests are due in the Board office at least 14 days in advance of the meeting.**

**If you require the assistance of auxiliary aids or services to participate in/or attend the meeting because of a disability, please call our ADA Coordinator at (515) 281-5604. If you are hearing impaired, call Relay IA TTY at 1-800-735-2942.**