



KIM REYNOLDS, GOVERNOR
ADAM GREGG, LT. GOVERNOR

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

PUBLIC AGENDA

REGULARLY SCHEDULED MEETING – MAY 15-16, 2020

AGENDA^{1, 2, 3, 4, 5}

BOARD MEMBERS: Chair; Warren Gall, M.D., Vice Chair; Ronald Kolegraff, M.D., Secretary; Nikhil Wagle, M.D., Diane Cortese, Trudy Caviness, Patricia Fasbender, D.O., Mary Jo Romanco, Kyle Ulveling, M.D., Joyce Vista-Wayne, M.D.

THURSDAY, MAY 15, 2020

7:30 a.m. - **EXECUTIVE COMMITTEE** – Medical Conference Room B
Chair Gall, Cortese, Kolegraff, Romanco, Vista-Wayne

7:45 a.m. - **SCREENING COMMITTEE** – Board Room
Chair Wagle, Caviness, Fasbender, Ulveling

9:00 a.m. - **MONITORING COMMITTEE** – Board Room
Chair Kolegraff, Caviness, Cortese, Vista-Wayne

9:00 a.m. - **LICENSURE COMMITTEE** - Medical Conference Room B
Chair Romanco, Fasbender, Gall, Ulveling, Wagle

BOARD – OPEN SESSION - Board Room

BOARD – CLOSED SESSION - Board Room

A. Iowa Physician Health Committee

1. Notices of non-compliance

B. Committee Reports

1. Screening
2. Monitoring
3. Licensure

C. Review of Closed Minutes

1. March 26-27, 2020 Board meeting
2. April 23, 2020 teleconference

LUNCH BREAK

FULL BOARD – CLOSED SESSION - Board Room

FULL BOARD – OPEN SESSION - Board Room

A. Unlicensed Practice of Medicine Cases

1. None

B. Vote on Closed Session Cases

FRIDAY, MAY 15, 2020

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

BOARD-CLOSED SESSION

BOARD-OPEN SESSION

9:00 a.m. - BOARD-PUBLIC SESSION

A. Introduction of Public Present

B. Opportunity for Public Comments⁵

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

C. Staffing

1. Chief Investigator position
2. Monitoring Program Manager

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

1. March 26-27, 2020 Board meeting
2. April 3, 2020 emergency teleconference (no closed minutes)
3. April 23, 2020 teleconference

E. Executive Director's Report

F. Administrative Rules

1. **Current rule 13.7 and consideration of rule regarding closure of practice Standards of Practice – Discussion (Joe)**

G. Proposed Legislation - No new legislation at this time

H. Iowa Physician Health Program Report – Amy Van Maanen, Coordinator

1. Monthly statistics

I. Judicial Review – Anagha Dixit, Assistant Attorney General

1. **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. This case received a decision on April 26, 2020.

2. **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.

3. **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. A hearing is set on the dismissal for May 8, 2020.

4. **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 briefing schedule has been set and this matter will be heard before the District Court in June.

J. Board Education

1. Health Equity Discussion for rulemaking
2. *Do Professionalism Lapses in Medical School Predict Problems in Residency and Clinical Practice?* Association of American Medical Colleges, April 10, 2020.

K. Recognition of Dr. Kyle Ulveling’s service on the Board.

BOARD-CLOSED SESSION

LUNCH BREAK

BOARD-CLOSED SESSION

BOARD-OPEN SESSION

A. Vote on Closed Session Cases

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

Board Meetings - 2020	Board Office Closings
July 9-10	Memorial Day - May 25
August 27-28	Independence Day - July 3
October 22-23	Labor Day - September 7
December 10-11	Veterans Day - November 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

(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.