



**OPEN MINUTES  
MARCH 26-27, 2020 BOARD MEETING**

**THURSDAY MARCH 26, 2020:**

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

**MEMBERS ABSENT:** Kyle Ulveling, M.D., Chair  
Diane Cortese, Secretary

**STAFF PRESENT:** Kent M. Nebel, J.D., Executive Director  
Joseph A. Fraioli, J.D., Legal Director  
Don J. Woodhouse, M.D., Medical Director  
Jim Graham, Chief Investigator  
Chrissy Greco, Assistant to the Executive Director  
Aaron Kephart, Investigator  
Anne Schlepphorst, Investigator  
Brandi Allen, Investigator  
Dave McGlaughlin, Investigator  
Jennifer Huisman, Investigator  
Jerome Hill, Investigator  
Laura Wood, Investigator  
Andrew Rupiper, Compliance Support Coordinator  
Annie Hoffman, Licensure Director  
Cheryl Gravett, Licensing Specialist  
Jaime Dunbar, Licensing Specialist  
Melissa Nelsen, Licensing Specialist  
Kari Rolls, Administrative Assistant  
Anagha Dixit, Assistant Attorney General  
Steven Ervin, Information Technology Support

At 10:02 a.m., Ronald Kolegraff, M.D., Vice-Chair, called the meeting to order.

At 10:03 a.m., on a motion by Mary Jo Romanco, seconded by Warren Gall, M.D., 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. Warren Gall, M.D., Ronald Kolegraff, M.D., Mary Jo Romanco, 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 2:33 p.m., while still in closed session, all members present voted in favor of a motion by Mary Jo Romanco, seconded by Joyce Vista-Wayne, M.D., to meet in an open session. In open session, the Board took the following actions:

On a motion by Warren Gall, M.D., seconded by Mary Jo Romanco, all Board members present voted to **accept** the Licensure Committee Report and its recommendations.

On a motion by Ronald Kolegraff, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **accept** the combined Statement of Charges and Settlement Agreement for Danny Lewis, Jr., M.D., file 02-2019-662.

On a motion by Ronald Kolegraff, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **leave open** file 02-2017-440.

On a motion by Ronald Kolegraff, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **leave open** file 02-2017-644.

On a motion by Ronald Kolegraff, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **leave open** file 02-2019-075.

On a motion by Ronald Kolegraff, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **accept** the combined Statement of Charges and Settlement Agreement for Barry R. De Young, M.D., file 02-2019-575.

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

On a motion by Ronald Kolegraff, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **accept** the combined Statement of Charges and Settlement Agreement for Albert T. Chmielewski, M.D., file 02-2018-036.

On a motion by Ronald Kolegraff, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **leave open** file 02-2018-053.

On a motion by Ronald Kolegraff, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **leave open** file 02-2018-210.

On a motion by Ronald Kolegraff, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **leave open** file 02-2018-358.

On a motion by Ronald Kolegraff, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **leave open** file 02-2017-531.

On a motion by Ronald Kolegraff, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **leave open** file 03-2017-364.

On a motion by Ronald Kolegraff, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **leave open** file 03-2017-403.

On a motion by Ronald Kolegraff, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **leave open** file 03-2017-641.

On a motion by Ronald Kolegraff, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **affirm** its original decision to **close** file 03-2018-010, **with no formal disciplinary action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **accept** the Settlement Agreement & Final Order for Mary P. Rosman, D.O., files 03-2017-265 and 03-2017-414.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **leave open** file 02-2017-052.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **leave open** file 02-2018-415.

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

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

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2019-586, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **leave open** file 02-2016-373.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **leave open** file 02-2019-278.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **affirm** its original decision to **close** file 02-2015-702, **with no formal disciplinary action**.

On a motion by Warren Gall, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2018-095, 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 02-2018-096, 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 03-2019-343, 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 02-2017-606, 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 02-2019-520, 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 02-2019-593, with **no formal action**.

On a motion by Warren Gall, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **leave open** file 03-2019-383.

On a motion by Warren Gall, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **close** file 03-2019-346, with **no formal action**.

On a motion by Warren Gall, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **leave open** file 02-2019-621.

On a motion by Warren Gall, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2019-641, 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 03-2019-392, 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 02-2019-507, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 03-2019-305, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 03-2019-684, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2018-590, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **leave open** file 03-2019-188.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 03-2019-492, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2019-332, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2019-282, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2019-229, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2019-257, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **leave open** file 02-2019-665.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2016-168, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2016-171, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2016-687, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2017-600, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2016-172, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2019-016, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2019-259, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 03-2018-453, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2018-462, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2019-466, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 03-2019-467, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2019-661, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2020-051, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2018-555, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2018-593, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2019-176, with **no formal action**.

On a motion by Mary Jo Romanco, seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2019-606, with **no formal action**.

On a motion by Nikhil Wagle, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **close** file 03-2017-560, with **no formal action**.

On a motion by Nikhil Wagle, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **close** file 03-2019-663, with **no formal action**.

On a motion by Nikhil Wagle, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2019-518, with **no formal action**.

On a motion by Nikhil Wagle, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2019-671, with **no formal action**.

On a motion by Nikhil Wagle, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2020-006, with **no formal action**.

On a motion by Nikhil Wagle, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **close** file 03-2019-604, with **no formal action**.

On a motion by Nikhil Wagle, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2019-609, with **no formal action**.

On a motion by Nikhil Wagle, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2019-519, with **no formal action**.

On a motion by Nikhil Wagle, M.D., seconded by Brian Wilson, D.O., all Board members present voted to **close** file 02-2019-122, with **no formal action**.

At 2:49 p.m., Open Session went to recess. The open session resumed on Friday, March 27, 2020, at 8:00 a.m.

**FRIDAY, MARCH 27, 2020:**

**MEMBERS PRESENT:** 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:** Kyle Ulveling, M.D., Chair  
Diane Cortese, Secretary

**STAFF PRESENT:** Kent M. Nebel, J.D., Executive Director  
Joseph A. Fraioli, J.D., Legal Director  
Jim Graham, Chief Investigator  
Don Woodhouse, M.D., Medical Director  
Chrissy Greco, Assistant to the Executive Director  
Jerome Hill, Investigator  
Andrew Rupiper, Compliance Support Coordinator  
Annie Hoffman, Licensure Director  
Anagha Dixit, Assistant Attorney General  
Steven Ervin, Information Technology Support

Open session resumed at 8:00 a.m.

At 8:06 a.m., Kent Nebel called the public session to order.

**Public Present**

Laura Miller	Iowa Osteopathic Medical Association
Owen Parker	Office of Medical Cannabidiol
Dennis Tibben	Iowa Medical Society
Carl Olson	Cannabis Solutions

Mr. Nebel welcomed new staff members Dr. Don Woodhouse, Medical Director and Annie Hoffmann, Licensure Director to the Board. He noted that the Monitoring Coordinator position has been posted

Mr. Nebel expressed his thanks to Chief Investigator, Jim Graham, who has been with the Board of Medicine since 2016. He has taken a position as a Bureau Chief with IPERS. His last day will be April 16, 2020.

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

On a motion by Warren Gall, M.D., seconded by Ronald Kolegraff, M.D., all members present voted to approve the February 6-7, 2020 Board meeting minutes

On a motion by Warren Gall, M.D., seconded by Mary Jo Romano., all members present voted to approve the February 14, 2020 teleconference minutes.

On a motion by Brian Wilson, D.O., seconded by Ronald Kolegraff, M.D., all members present voted to approve the March 12, 2020 teleconference minutes.

**Joe Fraioli, Legal Director, and Owen Parker, Program Manager from the Office of Medical Cannabidiol reviewed the CBD Petition review process with the Board members.**

### **Administrative Rules**

Joe Fraioli, Legal Director, and Owen Parker, Program Manager from the Office of Medical Cannabidiol touched on the Standards of Practice of Medical Cannabidiol and new definitions. This item was moved and will be updated at the May meeting.

### **Proposed Legislation-Discussion**

Mr. Nebel gave the following update regarding proposed legislation.

The Health Professions Regulation (SF2392) has passed the Senate and is awaiting House Consideration. He will continue to monitor the legislation.

The Physician Assistants (SF2357) has been signed by the Governor. He said that he will continue to monitor it and said it is likely the Board of Medicine will be asked to write some rules to accompany it.

The Medical Cannabidiol (HF2589) was amended and passed by the House on March 10, 2020.

Carl Olson commented on his work with the Senate committee regarding federal regulation and their work to get the bill amended.

Owen Parker, Program Manager from the Office of Medical Cannabidiol said that his office would work with Mr. Olson on that bill.

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

The Board agreed to send a letter to the Governor with recommended Alternate Board member appointments. The recommendations are as follows:

Tom Drew, Attorney (Des Moines)  
Nicole Gilg Gachiani, M.D. – Family Medicine (Des Moines)  
Charles Wadle, D.O. – Psychiatry (Des Moines)  
Rodney Zeitler, M.D. - Internal Medicine (Iowa City)  
Michael Thompson, D.O. – General Surgery (Pella)  
KellyAnn Light-McGroary, M.D., Cardiology (Iowa City)

### **Board Appointments**

Mr. Nebel reviewed the newest Board appointments by the Governor.

Dr. Warren Gall was reappointment to the Board and his new term will extend to April 30, 2023.

Patricia Fasbender, D.O. – Family Medicine (Des Moines) has been appointed to the Board to fill a vacant physician member position.

Trudy Caviness – Business Professional (Ottumwa) has been appointed to the Board to fill the vacant public member position.

### **Votes for Board Officers**

On a nomination by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, Warren Gall, M.D. was voted in as Board Chairperson. Ronald Kolegraff, M.D., Mary Jo Romano, 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.

On a nomination by Nikhil Wagle, M.D., seconded by Warren Gall, Ronald Kolegraff, M.D. was voted in as Board Vice Chairperson. Warren Gall, M.D., Mary Jo Romano, 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.

On a nomination by Mary Jo Romano, seconded by Joyce Vista-Wayne, Dr. Nikhil Wagle, M.D. was voted in as Board Secretary. Warren Gall, M.D., Ronald Kolegraff, M.D., Mary Jo Romano, Joyce Vista-Wayne, M.D., and Brian Wilson, D.O., all voted aye in a roll call vote to approve the motion.

### **Interstate Medical Licensure Compact**

An update was given by Mary Jo Romano. She informed the Board that a letter has been drafted and will be sent to the Compact regarding concerns in the vetting process across the states.

### **Judicial Review was given by 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.

### **Board Education**

Mr. Nebel reminded the Board that they will have to update their State of Iowa security training and he hopes to do so at the May, 2021 meeting.

### **Approval of 2021 Board calendar**

On a motion by Warren Gall, M.D., seconded by Mary Jo Romanco, all members present voted to approve the 2021 Board calendar.

### **The Board recognized and expressed their thanks to Dr. Brian Wilson for his service on the Board.**

At 8:51 a.m., on a motion by Joyce Vista-Wayne, seconded by Nikhil Wagle, M.D., all members present voted to adjourn the meeting.