



MAY 14-15, 2020 – BOARD MEETING OPEN MINUTES

THURSDAY, MAY 14, 2020

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

MEMBERS ABSENT: None

STAFF PRESENT: Kent M. Nebel, J.D., Executive Director
Joseph A. Fraioli, J.D., Legal Director
Don J. Woodhouse, M.D., Medical Director Aaron
Kephart, Investigator
Anne Schleppehorst, 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
Judy Hojati, Renewal Coordinator
Kari Rolls, Administrative Assistant
Anagha Dixit, Assistant Attorney General Steven
Ervin, Information Technology Support

At 11:03 a.m., Warren Gall, M.D., Chair, called the meeting to order.

At 11:04 a.m., on a motion by Mary Jo Romanco, seconded by Ronald Kolegraff, 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. Trudy Caviness, Diane Cortese, Patricia Fasbender, D.O., Warren Gall, M.D., Ronald Kolegraff, M.D., Mary Jo Romanco, Kyle Ulveling, M.D., Joyce Vista-Wayne, M.D., and Nikhil Wagle, M.D., all voted aye in a roll call vote to approve the motion.

Ronald Kolegraff, M.D., left the meeting at 1:01 p.m.

At 5:32 p.m., Closed Session went to recess. The Closed Session resumed on Friday, May 15, 2020, at 8:02 a.m.

FRIDAY, MAY 15, 2020

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

MEMBERS ABSENT: None

STAFF PRESENT: Kent M. Nebel, J.D., Executive Director
Joseph A. Fraioli, J.D., Legal Director
Don J. Woodhouse, M.D., Medical Director
Aaron Kephart, Investigator
Dave McGlaughlin, Investigator
Jerome Hill, Investigator
Andrew Rupiper, Compliance Support Coordinator
Kari Rolls, Administrative Assistant
Shantel Billington, Office Manager
Chrissy Greco, Assistant to Executive Director
Anagha Dixit, Assistant Attorney General
Steven Ervin, Information Technology Support

Closed Session resumed at 8:02 a.m.

At 9:06 a.m., all members present voted in favor of a motion by Ulveling, M.D., seconded by Mary Jo Romanco, to meet in an open session.

Public session began at 9:08 a.m.

Public in Attendance	
Tony Leys	Des Moines Register
Dennis Tibben	Iowa Medical Society
Danna Stison	

Kent Nebel, Executive Director said that the Chief Investigator position paperwork has been submitted to Human Resources for review and will be posted upon approval. The Monitoring Program Manager interviews have been completed and he hopes to make an offer early next week.

Dr. Warren Gall, Board Chairperson welcomed the new Board members, Trudy Caviness, public member and Patricia Fasbender, D.O., physician member.

Joe Fraioli, Legal Director, suggested revisions for better clarification and/or a list of best practices on the current rule 13.7, regarding closure of practice Standards of Practice. He encouraged Board members to reach out to provide their suggestions.

A judicial review update was given by 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 into 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 was held May 8, 2020. A decision is pending.

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.

Mr. Nebel, Executive Director, advised the Board that the staff is encouraging the agency to focus on disparities in our state and begin to implement health equity into the Board's procedures and processes, to align with the mission of the Iowa Department of Public Health. He said they will start working on these rules and hopes to have some suggestions to bring back to the July meeting.

Mr. Nebel, Executive Director and all Board members recognized and thanked Dr. Kyle Ulveling for his many years of service on the Board.

At 9:24 a.m., all members present voted in favor of a motion by Mary Jo Romano, seconded by Nikhil Wagle, M.D., to adjourn the Public Session. In open session, the Board took the following actions:

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

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

On a motion by Mary Jo Romano, seconded by Nikhil Wagle, M.D., all Board members present voted to approve the March 26-27, 2020, Board meeting minutes as presented.

On a motion by Mary Jo Romano, seconded by Nikhil Wagle, M.D., all Board members present voted to approve the April 23, 2020, Board Teleconference meeting minutes as presented.

On a motion by Mary Jo Romano, seconded by Ronald Kolegraff, M.D., all Board members present voted to leave open file 02-2017-622. Nikhil Wagle, M.D., recused.

On a motion by Nikhil Wagle, M.D., seconded by Diane Cortese, all Board members present voted to accept the combined Statement of Charges and Settlement Agreement for Ted P. George, D.O., files 03-2015-429 and 03-2017-269. Ronald Kolegraff, M.D., recused.

On a motion by Nikhil Wagle, M.D., seconded by Diane Cortese, all Board members present voted to close file 03-2018-414, with no formal action. Ronald Kolegraff, M.D., recused.

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

On a motion by Nikhil Wagle, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to leave open file 02-2018-400.

On a motion by Nikhil Wagle, M.D., seconded by Mary Jo Romanco, all Board members present voted to close file 02-2019-334, with no formal action. Ronald Kolegraff, M.D., recused.

On a motion by Nikhil Wagle, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to affirm its original decision to close file 03-2019-397, with no formal disciplinary action.

On a motion by Nikhil Wagle, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to affirm its original decision to close file 02-2019-258, with no formal disciplinary action.

On a motion by Nikhil Wagle, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2018-228, with no formal action.

On a motion by Nikhil Wagle, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 03-2019-333, with no formal action.

On a motion by Joyce Vista-Wayne, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2019-621, with no formal action. Patricia Fasbender, D.O., recused.

On a motion by Joyce Vista-Wayne, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2018-048, with no formal action.

On a motion by Joyce Vista-Wayne, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to leave open file 02-2019-193.

On a motion by Joyce Vista-Wayne, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to leave open file 03-2018-207. Kyle Ulveling, M.D., recused.

On a motion by Joyce Vista-Wayne, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to leave open file 03-2018-296. Kyle Ulveling, M.D., recused.

On a motion by Joyce Vista-Wayne, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to leave open file 03-2018-643. Kyle Ulveling, M.D., recused.

On a motion by Joyce Vista-Wayne, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to leave open file 03-2018-648. Kyle Ulveling, M.D., recused.

On a motion by Joyce Vista-Wayne, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to leave open file 02-2017-052.

On a motion by Joyce Vista-Wayne, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to leave open file 02-2018-415.

On a motion by Joyce Vista-Wayne, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to leave open file 02-2019-307.

On a motion by Joyce Vista-Wayne, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to leave open file 02-2019-317.

On a motion by Joyce Vista-Wayne, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 01-2019-399, with no formal action.

On a motion by Joyce Vista-Wayne, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2019-499, with no formal action.

On a motion by Joyce Vista-Wayne, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2020-055, with no formal action.

On a motion by Joyce Vista-Wayne, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2019-318, with no formal action. Warren Gall, M.D., recused.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2018-228, with no formal action.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2018-368, with no formal action.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 03-2018-118, with no formal action. Nikhil Wagle, M.D., recused.

On a motion by Kyle Ulveling, M.D., seconded by Mary Jo Romanco, all Board members present voted to close file 02-2019-627, with no formal action. Nikhil Wagle, M.D., recused. Ronald Kolegraff, M.D., recused.

On a motion by Kyle Ulveling, M.D., seconded by Mary Jo Romanco, all Board members present voted to close file 02-2019-628, with no formal action. Nikhil Wagle, M.D., recused. Ronald Kolegraff, M.D., recused.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2019-501, with no formal action.

On a motion by Kyle Ulveling, M.D., seconded by Diane Cortese, all Board members present voted to close file 02-2019-522, with no formal action. Ronald Kolegraff, M.D., recused.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 03-2019-357, with no formal action.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2019-620, with no formal action.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2019-362, with no formal action.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2019-226, with no formal action.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2019-400, with no formal action. Trudy Caviness and Joyce Vista-Wayne, M.D., recused.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2020-045, with no formal action.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 03-2019-669, with no formal action.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 03-2019-340, with no formal action.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to leave open file 03-2018-271. Mary Jo Romanco and Joyce Vista-Wayne, M.D., recused.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to leave open file 03-2018-272. Mary Jo Romanco and Joyce Vista-Wayne, M.D., recused.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to leave open file 02-2018-273. Mary Jo Romanco and Joyce Vista-Wayne, M.D., recused.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 03-2018-569, with no formal action.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2018-579, with no formal action.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2019-478, with no formal action.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to leave open file 02-2019-276.

On a motion by Diane Cortese, seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 03-2019-580, with no formal action. Kyle Ulveling, M.D., recused.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 03-2019-529, with no formal action.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2019-707, with no formal action.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to leave open file 02-2019-572.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 03-2019-702, with no formal action.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2019-476, with no formal action.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to leave open file 03-2020-044.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2019-308, with no formal action.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to leave open file 02-2019-552. Warren Gall, M.D., recused.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to leave open file 02-2019-683. Warren Gall, M.D., recused.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to leave open file 03-2019-435.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2017-658, with no formal action. Joyce Vista-Wayne, M.D., recused.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 03-2019-465, with no formal action.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 03-2019-646, with no formal action. Patricia Fasbender, D.O., recused.

On a motion by Kyle Ulveling, M.D., seconded by Ronald Kolegraff, M.D., all Board members present voted to close file 02-2019-208, with no formal action.

At 9:47 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.