



JULY 9-10, 2020 – BOARD MEETING OPEN MINUTES

THURSDAY, JULY 9, 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
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 Schlepphorst, Investigator
Brandi Allen, Investigator
Jennifer Huisman, Investigator
Jerome Hill, Investigator
Laura Wood, Investigator
Emily Zalasky, Monitoring Coordinator
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
Seamus Taylor, Intern Attorney General's Office
Steven Ervin, Information Technology Support

At 12:16 p.m., Warren Gall, M.D., Chair, called the meeting to order.

At 12:18 p.m., on a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romanco, 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, Joyce Vista-Wayne, M.D., and Nikhil Wagle, M.D., all voted aye in a roll call vote to approve the motion.

At 3:29 p.m., while still in closed session, all members present voted in favor of a motion by Joyce Vista-Wayne, M.D., seconded by Ronald Kolegraff, M.D., to meet in an open session. In open session, the Board took the following actions:

On a motion by Trudy Caviness, seconded by Mary Jo Romanco, all Board members present voted to **leave open** file 02-2016-235. Nikhil Wagle, M.D., recused.

On a motion by Trudy Caviness, seconded by Mary Jo Romanco, all Board members present voted to **leave open** file 02-2016-566. Nikhil Wagle, M.D., recused.

On a motion by Trudy Caviness, seconded by Mary Jo Romanco, all Board members present voted to **leave open** file 02-2017-486. Nikhil Wagle, M.D., recused.

On a motion by Trudy Caviness, seconded by Mary Jo Romanco, all Board members present voted to **leave open** file 02-2018-197. Nikhil Wagle, M.D., recused.

On a motion by Trudy Caviness, seconded by Mary Jo Romanco, all Board members present voted to **dismiss** the Statement of Charges against Richard A. Strickler, Jr., D.O., file 03-2015-452.

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

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

On a motion by Joyce Vista-Wayne, M.D., seconded by Mary Jo Romanco, all Board members present voted to **affirm** its original decision to **close** file 02-2018-300, **with no formal disciplinary action**.

On a motion by Patricia Fasbender, D.O., seconded by Mary Jo Romanco, all Board members present voted to **affirm** its original decision to **close** file 02-2018-300, **with no formal disciplinary action**. Joyce Vista-Wayne, M.D., recused.

On a motion by Patricia Fasbender, D.O., seconded by Mary Jo Romanco, all Board members present voted to **affirm** its original decision to **close** file 03-2020-015, **with no formal disciplinary action**. Joyce Vista-Wayne, M.D., recused.

On a motion by Joyce Vista-Wayne, M.D., seconded by Mary Jo Romanco, all Board members present voted to **affirm** its original decision to **close** file 02-2019-290, **with no formal disciplinary action**.

On a motion by Joyce Vista-Wayne, M.D., seconded by Mary Jo Romanco, all Board members present voted to **close** file 02-2020-147, with **no formal action**. Ronald Kolegraff, M.D., recused.

On a motion by Nikhil Wagle, M.D., seconded by Mary Jo Romanco, all Board members present voted to **close** file 03-2019-498, with **no formal action**. Patricia Fasbender, D.O., recused.

On a motion by Nikhil Wagle, M.D., seconded by Mary Jo Romanco, all Board members present voted to **close** file 02-2019-581, with **no formal action**.

On a motion by Nikhil Wagle, M.D., seconded by Mary Jo Romanco, all Board members present voted to **close** file 02-2019-139, with **no formal action**.

On a motion by Nikhil Wagle, M.D., seconded by Mary Jo Romanco, all Board members present voted to **close** file 02-2020-012, with **no formal action**.

On a motion by Nikhil Wagle, M.D., seconded by Mary Jo Romanco, all Board members present voted to **close** file 03-2020-115, with **no formal action**.

On a motion by Nikhil Wagle, M.D., seconded by Mary Jo Romanco, all Board members present voted to **close** file 02-2018-433, with **no formal action**.

On a motion by Nikhil Wagle, M.D., seconded by Mary Jo Romanco, all Board members present voted to **close** file 03-2018-434, with **no formal action**.

On a motion by Nikhil Wagle, M.D., seconded by Mary Jo Romanco, all Board members present voted to **leave open** file 02-2018-607.

On a motion by Nikhil Wagle, M.D., seconded by Mary Jo Romanco, all Board members present voted to **close** file 02-2019-024, with **no formal action**.

On a motion by Nikhil Wagle, M.D., seconded by Mary Jo Romanco, all Board members present voted to **leave open** file 02-2018-588.

On a motion by Nikhil Wagle, M.D., seconded by Mary Jo Romanco, all Board members present voted to **close** file 02-2019-013, with **no formal action**.

On a motion by Nikhil Wagle, M.D., seconded by Mary Jo Romanco, all Board members present voted to **close** file 03-2019-504, with **no formal action**.

On a motion by Nikhil Wagle, M.D., seconded by Mary Jo Romanco, all Board members present voted to **close** file 02-2019-505, with **no formal action**.

On a motion by Nikhil Wagle, M.D., seconded by Mary Jo Romanco, all Board members present voted to **leave open** file 03-2019-350.

On a motion by Nikhil Wagle, M.D., seconded by Mary Jo Romano, all Board members present voted to **leave open** file 02-2019-523.

On a motion by Nikhil Wagle, M.D., seconded by Mary Jo Romano, all Board members present voted to **leave open** file 02-2019-249.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to **close** file 02-2019-666, with **no formal action**.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to **close** file 02-2019-616, with **no formal action**.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to **leave open** file 02-2019-647.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to **close** file 02-2019-682, with **no formal action**.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to **leave open** file 03-2019-597.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to **close** file 03-2020-132, with **no formal action**.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to **leave open** file 02-2019-656.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to **close** file 02-2018-025, with **no formal action**.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to **close** file 02-2019-261, with **no formal action**.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to **close** file 02-2019-262, with **no formal action**.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to **close** file 02-2020-053, with **no formal action**.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to **leave open** file 02-2019-464.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to **leave open** file 03-2019-607.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to **close** file 03-2018-360, with **no formal action**.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to **close** file 02-2020-134, with **no formal action**.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to **close** file 02-2016-151, with **no formal action**.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to **close** file 02-2019-232, with **no formal action**.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to **close** file 03-2019-694, with **no formal action**.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to **close** file 03-2019-654, with **no formal action**.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to **close** file 02-2019-594, with **no formal action**. Joyce Vista-Wayne, M.D., recused.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to **close** file 02-2019-336, with **no formal action**.

On a motion by Ronald Kolegraff, M.D., seconded by Mary Jo Romano, all Board members present voted to **close** file 03-2019-525, with **no formal action**.

On a motion by Ronald Kolegraff, M.D., seconded by Nikhil Wagle, M.D., all Board members present voted to accept the Monitoring 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 Screening Committee Report and its recommendations.

On a motion by Ronald Kolegraff, M.D., seconded by Diane Cortese, all Board members present voted to accept the Licensure Committee Report and its recommendations.

On a motion by Joyce Vista-Wayne, M.D., seconded by Nikhil Wagle, M.D., all Board members present voted to approve the May 14-15, 2020, Board meeting minutes as presented.

On a motion by Joyce Vista-Wayne, M.D., seconded by Nikhil Wagle, M.D., all Board members present voted to approve the May 14-15, 2020, Board meeting and June 25, 2020, Board Teleconference meeting minutes as presented.

At 3:36 p.m., Open Session went to recess. The Open Session resumed on Friday, July 10, 2020, at 8:00 a.m.

FRIDAY, JULY 10, 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
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
Jerome Hill, Investigator
Laura Wood, Investigator
Amy Van Maanen, Iowa Physician Health Program Coordinator
Annie Hoffman, Licensure Director
Jaime Dunbar, Licensing Specialist
Andrew Rupiper, Compliance Support Coordinator
Kari Rolls, Administrative Assistant
Shantel Billington, Office Manager
Chrissy Greco, Assistant to Executive Director
Anagha Dixit, Assistant Attorney General
Seamus Taylor, Intern Attorney General's Office
Steven Ervin, Information Technology Support

Open Session resumed at 8:00 a.m.

At 8:00 a.m., on a motion by Ronald Kolegraff, M.D., seconded by Nikhil Wagle, 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., and Nikhil Wagle, M.D., all voted aye in a roll call vote to approve the motion.

At 9:40 a.m., while still in closed session, all members present voted in favor of a motion by Nikhil Wagle, M.D., seconded by Diane Cortese, to meet in an open session. In open session, the Board took the following actions:

On a motion by Ronald Kolegraff, M.D., seconded by Diane Cortese, all Board members present voted to **close** file 03-2018-272, with **no formal action**. Mary Jo Romano and Joyce Vista-Wayne, M.D., recused.

On a motion by Ronald Kolegraff, M.D., seconded by Diane Cortese, all Board members present voted to **close** file 03-2018-271, with **no formal action**. Mary Jo Romano and Joyce Vista-Wayne, M.D., recused.

On a motion by Ronald Kolegraff, M.D., seconded by Diane Cortese, all Board members present voted to **close** file 02-2018-273, with **no formal action**. Mary Jo Romano and Joyce Vista-Wayne, M.D., recused.

On a motion by Ronald Kolegraff, M.D., seconded by Diane Cortese, all Board members present voted to **leave open** file 03-2018-434.

Mary Jo Romano and Joyce Vista-Wayne, M.D., joined the meeting at 9:50 a.m.

Public session began at 9:53 a.m.

Public in Attendance	
Tony Leys	Des Moines Register
Rebecca Lucas	MedPharm Iowa
Laura Miller	Iowa Osteopathic Medical Association
Carl Olson	Cannabis Solutions
Linda Thiesen	University of Iowa

On a motion by Nikhil Wagle, M.D., seconded by Mary Jo Romano, all Board members present voted to approve the agenda.

A staffing update was given by Kent Nebel. He congratulated Emily Zalasky, who will fill the Board's open monitoring coordinator position and stated that the vacant chief investigator position has been posted on the State of Iowa job website.

Mr. Nebel presented the meeting minutes for approval.

On a motion by Mary Jo Romano, seconded by Ronald Kolegraff, M.D., all Board members present voted to approve the open and closed minutes from the May 14-15, 2020 Board meeting and June 25, 2020 teleconference.

Mr. Nebel presented the fiscal year 2021 budget to the Board for approval.

On a motion by Warren Gall, M.D., seconded by Joyce Vista-Wayne, M.D., all Board members present voted to approve the fiscal year 2021 budget.

Mr. Nebel presented information to the Board for the Physician Supervision of a Physician Assistant 21.4, regarding Physician Assistant Supervision Statute Mandated Rule Changes.

On a motion by Ronald Kolegraff, M.D., seconded by Warren Gall, M.D., all Board members present voted to notice the amendments to Physician Supervision of a Physician Assistant 21.4 - Physician Assistant Supervision Statute Mandated Rule Changes.

Mr. Nebel updated the Board regarding current legislation, including House Files 2627 - Professional Licensure, 310 – Optometry, 594 - Relating to Medical Procedures Including Abortion and 2589, as well as the Iowa Department of Public Health's communication regarding the mCBD Act & Medical Marijuana. **This update was informational and there were no actions taken.**

Amy Van Maanen, Coordinator of the Iowa Physician Health Program asked the Board to notice the program's rule revisions.

On a motion by Joyce Vista-Wayne, M.D., seconded by Trudy Caviness, all Board members present voted to notice the rule revisions for the Iowa Physician Health Program.

Judicial Review was given by Anagha Dixit, Assistant Attorney General, as follows:

1. Calcaterra v. Board of Medicine - Domenico Calcaterra, M.D. - The Board issued a declaratory order finding that statements of charges are public documents. Dr. Calcaterra 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. We have requested this decision be stayed and reconsidered. Both requests are still pending before the court.

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. Dr. Yates filed a pro se Petition for Judicial Review, which the court ruled as timely. He has since acquired local Florida counsel. Counsel for Petitioner filed their brief in early July. The Board's response will be due at the end of the month. Oral arguments in this case are currently scheduled for late August.

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 matter was heard in late June and the parties now await a decision.

A verbal update regarding the Interstate Medical Licensure Compact was given by Board representative, Mary Jo Romanco. She stated that the Compact is working to make the letters of qualification and/or state of principal licensure from the individual states are uniform in nature.

Warren Gall, M.D., said there were issues on some state letters, as well as administrative problems at the Compact that were likely complicating the process.

At 10:39 a.m., all members present voted in favor of a motion by Mary Jo Romanco, seconded by Nikhil Wagle, M.D., to adjourn the meeting.