



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 A G E N D A^{1, 2, 3, 4, 5}
REGULARLY SCHEDULED MEETING – APRIL 15-16, 2021

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

THURSDAY, APRIL 15, 2021

7:30 a.m. - **EXECUTIVE COMMITTEE** - Chair Gall, Cortese, Kolegraff, Romano, Vista-Wayne

7:30 a.m. - **SCREENING COMMITTEE** - Chair Wagle, Caviness, Fasbender

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

9:00 a.m. - **LICENSURE COMMITTEE** - Chair Romano, Fasbender, Gall, Wagle

BOARD – OPEN SESSION

BOARD – CLOSED SESSION - Board Room

A. Iowa Physician Health Committee

1. Notices of non-compliance - One

B. Committee Reports

1. Screening
2. Monitoring
3. Licensure

C. Review of Closed Minutes

1. February 18-19, 2021 Board Meeting
2. March 11, 2021 teleconference

LUNCH BREAK

FULL BOARD – CLOSED SESSION

FULL BOARD – OPEN SESSION - Board Room

A. Unlicensed Practice of Medicine Cases

1. None

B. Vote on Closed Session Cases

FRIDAY, APRIL 16, 2021

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

BOARD-CLOSED SESSION

BOARD-OPEN SESSION

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

Members of the public may participate in the public session by calling the teleconference line below:

CALL: (866) 685-1580

USE CODE: 971-913-4151

A. Roll call to establish a quorum

B. Vote to approve agenda

C. Introduction of Public Present

D. Opportunity for Public Comments⁵

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

E. Executive Director's Report

F. Approve 2022 Board Calendar dates

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

1. February 18-19 Board Meeting
2. March 11, 2021 teleconference

H. Vote on Board positions

I. Legislative Update

1. HF 764 - A bill for an act relating to disciplinary hearings conducted by professional licensing boards. (Formerly HSB 75.)
2. SF 487 - A bill for an act relating to the operation of state government, including the review of state boards and the regulation of professions and occupations, and including effective date and applicability provisions. (Formerly SSB 1046.)
3. HF 592 - A bill for an act relating to noneconomic damage awards against health care providers. (Formerly HF 517.)
4. HF 588 - A bill for an act creating a Hoover presidential library tax credit available against the individual and corporate income taxes, the franchise tax, the insurance premiums tax, and the moneys and credit tax.(Formerly HF 255.)
5. SF 125 - A bill for an act relating to immunization information requested on a medical examiner investigation form.
6. HF 735 - A bill for an act relating to emergency care policy and procedure requirements applicable to an ambulatory surgical center. (Formerly HF 115.)
7. HF 133 - A bill for an act relating to the extension of deadlines for the completion of continuing education requirements.
8. HF 763 - A bill for an act relating to emergency care policy and procedure requirements applicable to an ambulatory surgical center. (Formerly HF 115.)
9. HF 769 - A bill for an act relating to information to be provided, recorded, and reported by health care providers and health professionals relative to vaccinations and immunizations, and providing for licensee discipline. (Formerly HF 632.)
10. HF 431 - A bill for an act relating to the provision of audio-only telehealth or telemedicine by health care professionals. (Formerly HF 88.)

11. HF 803 - A bill for an act relating to duties performed by physician assistants. (Formerly HSB 255.)

J. Administrative Rules

1. Use of Criminal Convictions in Eligibility Determinations and Initial Licensing Decisions NIA 5473C – Update – [Vote to Adopt.](#)
 - a. Public hearing held on 3.16.2021 – no comments received.
2. HF 2589 - Standards of Practice - Medical Cannabidiol – [Vote to Notice.](#)

K. Judicial Review – Anagha Dixit, Assistant Attorney General

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 since appealed and both parties have filed all their briefs. We are awaiting a decision from the appellate courts.
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.
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. The parties both briefed the issues and an oral argument was held in District Court. The Board's decision was affirmed. Dr. Yates's attorney has recently been admitted pro hac vice so the court will now set a briefing schedule for the appeal.
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 parties briefed the issue and had oral arguments. The Board's decision was affirmed and Dr. Doe has filed a notice of appeal. All briefs have been submitted and we're awaiting a final decision from the appellate court
5. Lajeunesse v. Board of Medicine Michael LaJeunesse was a complainant whose case was closed by the Board and he is attempting to have the Board's decision judicially reviewed. His writ before district court was dismissed but he is attempting to re-open the case by filing an amended petition. His judicial review of the Board's declaratory order is proceeding in its merits. There are also two pending cases in the appellate courts both related to this matter, including a writ against the District Court.
6. Irland v. Board of Medicine – Mark Irland, M.D. Dr. Irland was issued a confidential order and filed a Motion to Dismiss at the administrative level, which was denied. He filed a judicial review in response and the Board filed a motion to dismiss his judicial review. Oral arguments on the matter were heard on February 3, 2021. The District Court sided with the Board and dismissed the appeal. Dr. Irland filed a notice of appeal.

L. Iowa Physician Health Program – Monthly statistics

M. Interstate Medical Licensure Compact - Update

N. Board Education - [Recommended Trainings](#)

1. Public Health Institute's Center for Connected Health Policy is hosting a Policy Webinar Series, returning this April with four new webinars exploring telehealth and Medicaid in the context of COVID-19, and featuring Medicaid experts. These four webinars will be held throughout the Spring of 2021, and will explore Access and Equity in Medicaid Telehealth

Policy; Medicaid Telehealth Policies for Children and Youth; Medicaid Telehealth Policies for Seniors; and Telemental Health State Medicaid Policies.

Find more information and registration for individual webinars [HERE](#).

O. Articles

1. **WalletHub - 2021 Best & Worst States for Doctors**
2. **FSMB Newsletter - Doctor operates during Sacramento California court trial video call**

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.*)

| 2021 BOARD CALENDAR | | |
|--|--|---|
| BOARD MEETINGS | BOARD TELECONFERENCES | STATE HOLIDAYS OBSERVED – OFFICE CLOSED |
| June 3-4 July 22-23 September 9-10 October 21-22 December 9-10 | May 13 June 24 August 19 September 30 | May 31 - Memorial Day July 5 - Independence Day September 6 - Labor Day November 11 - Veterans Day November 25-26 - Thanksgiving December 24 – Christmas December 31 - New Year's Day |

(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.