



STATE OF IOWA

KIM REYNOLDS, GOVERNOR
ADAM GREGG, LT. GOVERNOR

IOWA BOARD OF MEDICINE
KENT NEBEL, J.D, EXECUTIVE DIRECTOR
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PUBLIC A G E N D A^{1, 2, 3, 4, 5}
REGULARLY SCHEDULED MEETING – JULY 22-23, 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, JULY 22, 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

A. Iowa Physician Health Committee

1. Notices of non-compliance - NONE

B. Committee Reports

1. Screening
2. Monitoring
3. Licensure

C. Review of Closed Minutes

1. June 3-4, 2021 Board Meeting
2. June 24, 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, JULY 23, 2021

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

BOARD-CLOSED SESSION

8:30 a.m. - HEARING

Dennis E. Colby, D.O.

BOARD-CLOSED SESSION

BOARD-OPEN SESSION

10:30 a.m. - BOARD-PUBLIC SESSION

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

1. June 3-4, 2021 Board Meeting
2. June 24, 2021 Teleconference

G. Vote to Approve 2022 FY Budget

H. Vote to Approve Fee Schedule

I. Administrative Rules

1. **Vote to Adopt** - HF 2589 Chronic Pain, PTSD Standards of Practice for CBD.
2. ARC 5599C – **Update**
Executive Director of the Board of Medicine shall be appointed by the Director of the Department of Public Health.
 - a. This rule went into effect on June 9th, 2021.
3. ARC 5600C – **Update**
Removal of Variances
 - a. This rule went into effect on June 9th, 2021.

J. 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 in District Court 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. The case has been routed to the Supreme Court and we will have oral arguments sometime this fall or spring of next year.
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. The parties have filed their briefs and we are awaiting routing and a decision.
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. The matter has been submitted and we await a decision from the Court of Appeals.

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. He has attempted multiple avenues to have the matter reviewed by a District Court or higher. Most recently, his judicial review of the Board’s decision declining to issue a declaratory order was reviewed by the court and the District Court agreed with the Board’s ruling.
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. This matter is currently being briefed.

K. Iowa Physician Health Program – Monthly stats

L. Interstate Medical Licensure Compact - Update

M. Articles

1. Unidentified Doctor Who Poses 'High Risk' To the Public Continues To Practice.
2. How Much Physicians Earn In 10 Best States To Practice.

N. Board Education - Recommended Training

Federation of State Medical Board - "Ensuring Fairness in Medical Regulation: Can Implicit Bias Be Overcome?" The FSMB has indicated that it will continue to encourage state medical boards to proactively address issues related to health inequity.

“Each of us has the power to do something about this issue...to make quality health care accessible to all Americans and to even the playing field so that health outcomes are truly equitable, regardless of race or background, said Dr. Walker-McGill. “This is an opportunity for state medical boards to ask – what could we be doing differently to address racism, implicit bias and health inequity?”

Research has shown that implicit bias is prevalent among health care professionals, it has harmful effects on patient health, and it is a contributing factor to health disparities. As medical regulators, we strive for impartiality and justice in our work, but do we have the capacity to be truly objective? What are the unseen barriers to achieving justice? During this session, Dr. Bryant Marks will discuss the concept of implicit bias, describe how it can manifest in medical regulation and the dangers it poses to fair outcomes.

BOARD-CLOSED SESSION

LUNCH BREAK

BOARD-CLOSED SESSION

BOARD-OPEN SESSION

1. Vote on Closed Session Cases

ADJOURN

2021 BOARD CALENDAR		
BOARD MEETINGS	BOARD TELECONFERENCES	STATE HOLIDAYS OBSERVED – OFFICE CLOSED
September 9-10 October 21-22 December 9-10	August 19 September 30	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.