



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 – JANUARY 27-28, 2022

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., Dalton Hayes, Chad Stads vold, D.O., Joyce Vista-Wayne, M.D.

THURSDAY, JANUARY 27, 2022

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

7:30 a.m. - **SCREENING COMMITTEE** - Chair Fasbender, Caviness, Hayes, Stads vold

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

9:00 a.m. - **LICENSURE COMMITTEE** - Chair, Wagle, Fasbender, Gall, Hayes, Stads vold

BOARD – OPEN SESSION

BOARD – CLOSED SESSION

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. December 9-10, 2021 Board Meeting

LUNCH BREAK

FULL BOARD – CLOSED SESSION

FULL BOARD – OPEN SESSION

A. Unlicensed Practice of Medicine Cases

1. None

B. Vote on Closed Session Cases

RULES COMMITTEE REVIEW - Chair Kolegraff, Wagle, Gall

653—13.8(148,272C) Standards of practice—medical directors at medical spas—delegation and supervision of medical aesthetic services performed by qualified licensed or certified nonphysician persons or qualified laser technicians. This rule establishes standards of practice for a physician or surgeon or osteopathic physician or surgeon who serves as a medical director at a medical spa.

FRIDAY, JANUARY 28, 2022

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

BOARD-CLOSED SESSION

BOARD-OPEN SESSION

9:00 a.m. - BOARD-PUBLIC SESSION – VIA ZOOM

Join Zoom Meeting

<https://us02web.zoom.us/j/88919702282?pwd=ZTN1anlKNmFMUXUxdTI1Y1Nzekxadz09>

Meeting ID: 889 1970 2282

Passcode: 096937

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. December 9-10, 2021 Board Meeting

G. Legislation

1. Memo and proposed amendments to 272C.6 Hearings, power of subpoena & decisions.

2. HSB 560 PT DISABILITY STATEMENTS (Transportation) Authorizes physical therapists to give the needed statement on the disability of a person in order for the person to get disabled plates/placard.

3. HSB 564 OMBUDSMAN EVIDENCE (State Government) Allows the Ombudsman to disclose confidential information obtained from agencies as is needed to finish a report or investigation and does not allow an agency to deny access to confidential information on this basis. Gives the Ombudsman the discretion to decline to investigate a whistleblower complaint. Does not require the Ombudsman to give a person who gives evidence or testimony all the same rights a witness in court. (Ombudsman)

4. HSB 565 BOARD DISCIPLINARY PROCEDURES (State Government) Makes a licensing board decision that the investigation of a complaint is not warranted or that it should be closed without disciplinary action subject to judicial review. Requires a board to inform a complainant of the reasons for the finding of no probable cause for the complaint. (Ombudsman)

5. HSB 571 DISASTER PROTECTIONS (State Government) Gives state agencies, and employees, officers and agents, protection from liability for good-faith actions take in response to a state or federal disaster proclamation. (DHS/EM) See SSB 3029

6. SF 2069 IMPROVING MENSTRUAL HEALTH (Human Resources) Requires the DPH to establish a health equity program that covers costs for services to improve menstrual health that are not otherwise covered. Requires the DPH to adopt rules and to set requirements for providers to participate. Appropriates an amount equal to the sales tax imposed on period products and diapers and limits administrative costs to 4%. SF 2012 COVID TESTS (Labor) Prohibits the Labor Commissioner from enforcing federal OSHA standards that require employers to determine if an employee has been vaccinated for COVID, has had a COVID test and what the results of the test and whether the employee has had COVID.

7. SF 2015 COGNITIVE SCREENINGS (State Government) Allows speech pathologists and audiologists to do cognitive screenings if the practitioner has the appropriate training. Allows the practitioner to refer the patient to a health care professional based on the results of the screening

8. SSB 3004 REQUIRED IMMUNIZATIONS (Education) Allows only the State Board of Health to require additional immunizations for daycare of K-12 students. Preempts local ordinances. Deems religious and medical exceptions apply to any immunization requirements from the State Board.
9. SSB 3005 STUDENT HEALTH SCREENINGS (Education) Prohibits schools from doing invasive physical exams, or screenings not required by law, of students without written permission. Makes exceptions for emancipated minors, emergent care situations and child abuse assessments.
10. SSB 3006 PHARMACY MATTERS (State Government) Allows an RN to give immunizations and vaccines under the order of pharmacist using statewide protocols without a registration from the BOP. Strikes certain requirements for a non-resident pharmacy to show evidence of giving out a toll-free number on prescriptions on its licensing application.
11. HF 2010 OFF LABEL DRUG TREATMENTS (Human Resources) Allows patients on mechanical ventilators to receive medicines for off-label purposes under the provisions for the use of experimental drugs to treat terminally ill patients.
12. HF 2014 ASSISTED REPRODUCTION (Judiciary) Makes it 4th Degree Sexual Abuse for a doctor or health care worker to use their own sperm or ova in assisted reproduction procedures without written consent from the patient.
13. HF 2017 PROVISIONAL PSYCHOLOGISTS (Human Resources) Allows the BOP to give a doctoral psychology student a two-year provisional license during the student's internship. Authorizes the intern to practice under the supervision of a licensed psychologist. Includes provisions on reimbursement rates and fees.
14. HSB 512 AUTISM DEFINITION (Human Resources) Defines autism spectrum disorder as an MH disorder which meets various diagnostic criteria. Makes conforming changes.
15. HSB 516 BRONCHODILATORS (Human Resources) Includes bronchodilators and related equipment to the medications that may be self-administered by students and stored at schools.
16. HSB 517 CONCUSSION PROFESSIONALS (Human Resources) Defines persons with psychology doctorates and specialty training in neuropsychology or concussion management as licensed health care providers for HS sports concussion policies.
17. SF 2004 REPRODUCTIVE HEALTH POLICIES (Education) Requires hospitals to give the DIA a copy of its policies related to reproductive health. Requires the DIA to post those policies on its internet site and requires a hospital to post the policies on its internet site. Requires the postings be updated if policies change.
18. SF 2007 MATERNITY SUPPORT SERVICES (Human Resources) Requires DHS to work with the DOE and the DPH to identify funding sources for home-based visiting services for women and children for support through pregnancy and afterwards. Requires the home visiting services be evidence-based. Allows the DHS to do feasibility studies on various funding sources.
19. SF 2008 MATERNAL BEST PRACTICES (Human Resources) Requires hospitals to adopt the best maternal practices/safety bundles from the national OB/GYN organizations.
20. HF 2031 TELEHEALTH REIMBURSEMENTS (Human Resources) Requires certain health carriers to reimburse out-of-state MH professionals for telehealth services if the professional is licensed in Iowa and able to deliver appropriate services. Effective on enactment
21. HF 2032 PUBLIC HEALTH COMMISSION (Human Resources) Establishes a Public Health Commission under the DPS to make annual reports and recommendations on improvements to the public health system.
22. HF 2034 COVID IMMUNITY PROOF (Human Resources) Requires an entity that requires proof of a COVID vaccination to accept proof of COVID immunity as confirmed by testing within the last three months as an alternative. Similar to SF 2030
23. HF 2036 COVID TESTING (Stone) (Judiciary) Requires a business that requires COVID testing as a vaccination alternative to pay all the costs for testing, including paying the

employee for time away from work. Prohibits requiring an employee to undergo testing outside of normal work hours. Effective on enactment.

24. SSB 3035 COVID HOSPITALS (Commerce) Exempts a health care facility from the Certificate of Need process if the facility will be developed in a county where the hospital requires employees to be vaccinated against COVID.
25. SSB 3037 COVID VACCINATION INCENTIVES (Commerce) Prohibits a health insurer or public employee health care plan from paying incentives to a provider for meeting COVID vaccination goals or imposing penalties on a provider for failing to meet those vaccination goals.
26. HSB 537 MH PRESCRIBER LOAN REPAYMENTS (Human Resources) Establishes a prescribing MH professional loan repayment program in the CSC, similar to other loan repayment programs for health care professionals. Requires the professional to practice for five years. Gives priority to lowans and members of the Iowa National Guard. Limits loan repayments to \$40,000 annually and \$200,000 overall (psychiatrists); \$10,000 and \$50,000 (ANRP); \$8,000 and \$40,000 (prescribing psychologist). Appropriates \$1 million for the program to the CSC.
27. SF 2021 SMOKE FREE CASINOS (State Government) Schultz Strikes the exemption from the Smoke-Free Act for gaming floors at casinos.
28. SF 2029 12 WEEK ABORTION BAN (Human Resources) Prohibits abortions after 12 weeks. Maintains current penalties related to abortions after 20 weeks.
29. SF 2030 COVID IMMUNITY PROOF (Human Resources) Requires an entity that requires proof of a COVID vaccination to accept proof of COVID immunity as an alternative
30. SF 2031 IVERMECTIN/HYDROXYCHLOROQUINE (Human Resources) Deems that a doctor that prescribes ivermectin or hydroxychloroquine for COVID shall not be subject to license discipline.
31. SF 2032 VACCINATION STATUS ON DEATH CERTIFICATES (Human Resources) Requires the DPH to amend death certificate forms so that the vaccination status of persons who die of COVID can be added to the death certificates.
32. SF 2033 VACCINE INFORMATION (Human Resources) Requires health care providers who are enrolled under the CDC COVID vaccination program to give patients a COVID fact sheet with the most recent information and to document that the patient has received the fact sheet.
33. SSB 3029 DISASTER PROTECTIONS (State Government) Gives state agencies, and employees, officers and agents, protection from liability for good-faith actions take in response to a state or federal disaster proclamation.

H. Administrative Rules – Joseph Fraioli, Legal Director

Nothing new to discuss.

I. Hearing Update – Joseph Fraioli, Legal Director

J. Judicial Review – Anagha Dixit, Assistant Attorney General

1. Colby v. Board of Medicine – Dennis Colby, M.D., the doctor lost a contested case earlier this fall and has filed a petition for judicial review. Briefing is set to be complete soon and we have oral arguments in District Court on February 4, 2022.

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. The Board was successful at District Court is defending the judicial review. It is now under review by appellate courts.

4. 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. He has appealed this decision. Briefing is complete and we await a decision by the appellate courts.

5. 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. Final briefs have been submitted and we have oral arguments in front of the Court of Appeals on February 8th, 2022.

6. Doe v. Board of Medicine-John Doe, M.D., Dr. Doe filed an emergency temporary injunction to block the Board from filing a statement of charges. The injunction was granted. The Board moved to dismiss the judicial review and dissolve the temporary injunction. Oral arguments were held in October and the Court dismissed the appeal and dissolved the injunction. Dr. Doe has filed a motion to reconsider.

K. Iowa Physician Health Program

1. Monthly stats

L. Interstate Medical Licensure Compact – Update

M. FSMB

1. Annual Meeting, April 28-30 (virtual and in person option)
 - Meeting agenda
 - Voting delegate and scholarship documents
2. Request for comment on draft reports

N. Board Education - Recommended Trainings

[A Physician's Practical Guide to Culturally Competent Care Web site](#) offers CME/CE credit and equips health care professionals with awareness, knowledge, and skills to better treat the increasingly diverse U.S. population they serve.

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.*)

2022 BOARD CALENDAR		
BOARD MEETINGS	BOARD TELECONFERENCES	STATE HOLIDAYS OBSERVED
March 24-25 May 19-20 July 14-15 September 8-9 October 27-28 December 15-16	February 17 April 21 June 16 August 11 October 6 November 17	May 30 - Memorial Day July 4 - Independence Day September 5 - Labor Day November 11 - Veterans Day November 24-25 - Thanksgiving December 26 - Christmas

(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.