



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 – MARCH 24-25, 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 Stadvold, D.O., Joyce Vista-Wayne, M.D.

THURSDAY, MARCH 24, 2022

8:00 HEARING

9:00 a.m. - **EXECUTIVE COMMITTEE** - Chair Gall, Kolegraff, Cortese, Vista-Wayne, Wagle

9:00 a.m. - **SCREENING COMMITTEE** - Chair Fasbender, Caviness, Hayes, Stadvold

BOARD – OPEN SESSION

BOARD – CLOSED SESSION

A. Iowa Physician Health Committee

1. Notices of non-compliance - Two

B. Committee Reports

1. Screening
2. Monitoring
3. Licensure

C. Review of Closed Minutes

1. January 27-28, 2022 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

2:00 p.m. - **MONITORING COMMITTEE** - Chair Kolegraff, Caviness, Cortese, Vista-Wayne

2:00 p.m. - **LICENSURE COMMITTEE** - Chair, Wagle, Fasbender, Gall, Hayes, Stadvold

BOARD – OPEN SESSION

BOARD – CLOSED SESSION

A. 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, MARCH 25, 2022

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

BOARD-CLOSED SESSION

BOARD-OPEN SESSION

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

Join Zoom Meeting

<https://us02web.zoom.us/j/86155369275?pwd=L3hhVTZlcWNkOTc2UE9DWFVSN2pJQT09>

Meeting ID: 861 5536 9275

Passcode: 771846

Dial by your location

+1 312 626 6799 US

Meeting ID: 861 5536 9275

Passcode: 771846

- 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. January 27-28, 2022 Board Meeting
- G. Approve 2023 Board Calendar**
- H. Legislative Update**

New Bills we are monitoring:

- 1. **SF 487 Review of State Boards:** This bill requires each state board to justify its existence to a legislative committee every five years and sets the specific criteria.
- 2. **HF2203 Liability and Disciplinary Actions:** This bill would bar civil liability and licensee disciplinary action for causing or contributing, directly or indirectly, to the death or injury of an individual while providing or arranging health care in support of the state's response to COVID-19. This includes the off-label use of drugs to treat a patient with a suspected or confirmed case of COVID-19. This does not apply to reckless or willful misconduct. This would not prevent the Board from investigating or disciplining a licensee for a possible violations to the prevailing standard of care.

Previous Bills we are monitoring:

- 1. **HF 2279 & SSB 3039 Tort Reform:** This bill enacts a \$1 million hard cap on non-economic damages.
- 2. **HF 2388 Ambulatory Surgical Centers:** This bill requires ambulatory surgical centers to be licensed and provides for inspections by the Department of Inspections and Appeals.
- 3. **HF 2389 Dispensing Abortion Drugs:** This bill prohibits dispensing mifepristone for a medical abortion except in a health care setting and requires written informed consent for

patients.

4. **HF 2547 Licensed Midwives**: This bill requires a person practicing midwifery in Iowa to obtain a license to practice beginning July 1, 2023. This bill creates a separate Board within the Iowa Department of Public Health.
5. **Hf 2203 / Sf 2117 Off Label Drug Treatments**: 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.
6. **Hf 2298 Covid Immunizations**: A bill for an act relating to immunization against COVID-19 requirements for enrollment in any licensed childcare center, elementary or secondary school, or postsecondary school in Iowa.
7. **HF 2200 Direct Health Care Agreements**: A bill for an act relating to direct health care agreements, and including effective date and applicability provisions. (Formerly HF 625, HF 289.)

I. Administrative Rules – Joseph Fraioli, Legal Director

Nothing new to discuss.

J. Hearing Update – Joseph Fraioli, Legal Director

K. 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 and oral arguments are complete and we await a decision from the District 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.
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. The District Court ruled in favor of the Board's position. Dr. Irland appealed and the matter was retained by the Court of Appeals. After oral arguments, the matter was affirmed by the Court of Appeals on March 2, 2022.
6. **Doe v. Board of Medicine-John Doe, M.D.**, Dr. Doe filed a judicial review after losing a contested case hearing before the Board for competency concerns. The matter has been set for briefing and an oral argument in front of the District Court is scheduled for June 3, 2022.

L. Iowa Physician Health Program

1. Monthly stats

M. Interstate Medical Licensure Compact – Update

N. Federation of State Medical Boards

1. Diversion Equity Inclusion Workgroup Draft Report

O. Articles

1. **Nearly 25% Of Health Care Workers Likely To Leave Health Care Soon, Poll Finds** (*Becker's Hospital Review*, Feb. 22, 2022)
2. **FSMB Opposes Legislative Efforts To Limit State Medical Boards' Authority To Investigate Patient Harm** (*FSMB*, Feb. 28, 2022)

P. 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
May 19-20 July 14-15 September 8-9 October 27-28 December 15-16	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.